



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

The Planning Act 2008

**HyNet Carbon Dioxide Pipeline**

Examining Authority's Report  
of Findings and Conclusions

and

Recommendation to the Secretary of State for  
Energy Security and Net Zero

---

Examining Authority

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**20 December 2023**

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# OVERVIEW

File Ref: EN070007

The application, dated 3 October 2022, was made under section 37 of the Planning Act 2008 and was received in full by the Planning Inspectorate on 3 October 2022. It was accepted for examination on 31 October 2022.

The Applicant is Liverpool Bay CCS Limited.

The Examination of the application began on 20 March 2023 and was completed on 20 September 2023.

The Proposed Development comprises the construction, operation and decommissioning of a carbon dioxide (CO<sub>2</sub>) pipeline from Cheshire, England to Flintshire, Wales with necessary infrastructure for its operation including Above Ground Installations (AGIs) and Block Valve Stations (BVSs).

The Development Consent Order, if made, would consist of the following authorised development:

- Newbuild (CO<sub>2</sub>) pipeline from the Ince AGI, Ince, Cheshire to the Flint Connection Pipeline in Flint, Flintshire, being a new underground onshore pipeline to transport CO<sub>2</sub>;
- Repurposed existing natural gas pipeline to transport CO<sub>2</sub>, from the Flint Connection to the Point of Ayr (PoA) Terminal, PoA;
- four AGIs – Ince, Stanlow, Northop Hall, and Flint;
- six BVSs - located along the new Stanlow AGI to Flint AGI Pipeline and the existing Flint Connection to PoA Terminal Pipeline;
- other above ground infrastructure, including Cathodic Protection transformer rectifier cabinets and pipeline marker posts;
- utility connection infrastructure, including power utilities and fibre optic cable; and
- temporary ancillary works integral to the construction of the Carbon Dioxide Pipeline, including construction compounds and temporary access tracks.

The HyNet CO<sub>2</sub> Pipeline will facilitate the transportation of carbon and enable the wider HyNet North-West Project to be low carbon. It will also allow onward tie-in to local carbon intensive industries to reduce CO<sub>2</sub> emissions and would be key to meet the ambitious but critical targets set by The Climate Change Act 2008 (as amended) and set the way forward for other industrial clusters in the UK and abroad to decarbonise industry and the economy.

Summary of Recommendation:

The Examining Authority (ExA) recommends that the Secretary of State should make the Order in the form attached at Appendix D of this Report being the recommended Development Consent Order (DCO) and the version (the embedded pipe bridge crossing of the Alltami Brook) which is not considered to contravene the Water Framework Directive. However, should the Secretary of State for the Department of Energy Security and Net Zero disagree with the ExA regarding the contravention of the WFD, the Applicant's preferred version of the DCO, being the version of the DCO that would allow a trench crossing of the Alltami Brook, is attached at Appendix E.

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**ERRATA SHEET – HyNet Carbon Dioxide Pipeline- File Ref: EN070007**

**Examining authority’s Report of Findings and Conclusions and Recommendation to the Secretary of State for the Department of Energy Security & Net Zero dated 20 December 2023**

**Corrections agreed by the Examining Authority prior to a decision being made**

<b>Page No.</b>	<b>Paragraph</b>	<b>Error</b>	<b>Correction</b>	<b>ExA response</b>
58	3.7.1	<ul style="list-style-type: none"> <li>The Paris Agreement (2015) The Ramsar Convention of Wetlands of International Importance 1971.</li> </ul>	Need another bullet for The Ramsar Convention...	Agree.
68	4.1.5	<p>Whilst the principal issues identified subsequently formed the basis of the final assessment, the ExA considered them under the following headings in this chapter, in no order of importance:</p> <ul style="list-style-type: none"> <li>□ Air quality and emissions (which includes from dust, smoke, and steam).</li> <li>□ Assessment of alternatives.</li> <li>□ Biodiversity, ecology, and nature conservation.</li> </ul> <p>Need for the development</p> <ul style="list-style-type: none"> <li>□ Climate change.</li> <li>□ Cultural heritage.</li> </ul>	<p>Add ‘resilience’ after climate change to make consistent with further chapter titles</p> <p>Move waste management to the traffic and transport section to make consistent with</p>	Agree.

Page No.	Paragraph	Error	Correction	ExA response
		<ul style="list-style-type: none"> <li>□ Flood risk, water resources, land contamination and waste management.</li> <li>□ Landscape and visual amenity/ design and layout.</li> <li>□ Noise and vibration.</li> <li>□ Socio-economic effects (including human health and mineral working implications).</li> <li>□ Traffic and transport.</li> </ul>	further chapter titles	
114	5.5.54	The basis for the Woodland Trust 30m buffer being cited as unduly excessive by the Applicant relative to prevailing national guidance.	'is' is missing between Applicant and relative	Agree.
122	5.5.90	Given the minimal risk, the ExA finds the overall tree compensation strategy, secured by the proposed DCO, to be appropriate relative to prevailing PPW/ TAN guidance applicable in FCC's administrative area, nor the NPPF/ NPPG applicable to England.	'nor' doesn't seem like the right word in this context- should it be 'and'	Agree.
134	5.6.48	In summary, the ExA accepts these issues are complex and involve potential risks to the water environment. The ExA notes the Applicant's construction approach is well thought out using modern day techniques, as well as best practice. However, the ExA has taken a precautionary	Remove 'is' in the final sentence	Agree.



<b>Page No.</b>	<b>Paragraph</b>	<b>Error</b>	<b>Correction</b>	<b>ExA response</b>
		approach in assessing the case made. The ExA acknowledges that there may be a deterioration of the waterbody in line with NRW concerns. The ExA has also borne in mind the position of the nearby culvert under the A55 as a feature along the watercourse, in making its assessment, as an existing is physical restriction on waterflow and ecology.		
161	5.10.2	For Wales, the Future Wales the National Plan 2040, when read in conjunction with PPW, includes objectives to support decarbonisation and improving health and the environment through minimising exposure to air pollution.	Need a colon before 'the national plan 2040'	Agree.
169	5.11.18	National Highways (NH) are the Statutory Undertaker responsible for the SNR in England.	SNR should be SRN	Agree.
170	5.11.24	The Welsh Government are the Highway Authority for the SNR in Wales	SNR should be SRN	Agree.

<b>Page No.</b>	<b>Paragraph</b>	<b>Error</b>	<b>Correction</b>	<b>ExA response</b>
208	6.2.72	Taking into account the reasoning provided, the ExA considers the Proposed Development is likely to have a significant effect from the pathways identified in Table 1.2.1 above on the qualifying features of the European sites when considered alone or in combination with other plans or projects. This was not disputed by IPs during the Examination.	Table reference should just be Table 1	Agree.
208	6.3.1	The conservation objectives for the sites and features identified above in Table 1.2.1 are set out in Appendix A of the Applicant's HRAR. Table 5.2 of the HRAR details the known threats and pressures to these sites.	Table reference should just be Table 1	Agree.
244	8.6.1	At the start of the Examination, the following APs objected to or raised concerns in regard to CA and TP proposals: <ul style="list-style-type: none"> <li>□ Cadent Gas Limited [RR-006].</li> <li>□ CRT [RR-008].</li> <li>□ EA [RR-024].</li> <li>□ Essar Oil UK Ltd [RR-002].</li> <li>□ Exolum Pipeline Systems Limited [RR-033].</li> </ul>	The APs highlighted yellow are the same people- can they be moved together in the list or one deleted?	Agree reference to Mr B., Mrs S. & Mr M. Jones (Mollington) [RR-047] and Michael A. Jones & Sarah M. Jones & T. Benjamin Jones [RR-047] are to the same APs. As such references to the Mr B., Mrs S. & Mr M. Jones (Mollington) [RR-047] should be removed, whilst

Page No.	Paragraph	Error	Correction	ExA response
		<ul style="list-style-type: none"> <li>□ Network Rail (England and Wales) (NR) [RR-026].</li> <li>□ National Grid Electricity Transmission PLC (NGET) [RR-062]/ National Grid Gas PLC (NGG) [RR-063].</li> <li>□ NH [RR-064].</li> <li>□ Natural Resources Wales (NRW) [RR-066].</li> <li>□ Scottish Power Energy Networks (SPEN) [RR-075].</li> <li>□ United Utilities Water (U UW) [RR-080].</li> <li>□ Dŵr Cymru Welsh Water (DCWW) [RR-023].</li> <li>□ A White Events Limited [RR-027].</li> <li>□ Peel NRE Limited [RR-078].</li> <li>□ Travelodge Hotels Limited [RR-011].</li> <li>□ Ian Bentley [RR-044].</li> <li>□ John Horace George Bletcher [RR-055].</li> <li>□ Mr David John Brown, Mr James Edward Brown, and Mrs Ruth Brown [RR-073].</li> <li>□ J.G. &amp; M.A. Brown and Son [RR-045].</li> <li>□ Messrs MJ &amp; A Cheers [RR-032].</li> <li>□ David Leigh Connah [RR-043].</li> <li>□ Brian Cook [RR-005].</li> <li>□ Emma Clare Craven-Smith-Milnes [RR-071].</li> <li>□ The Executors of Mrs Gwyneth Evans Deceased [RR-052].</li> <li>□ Sarah Harley [RR-074].</li> <li>□ Peter Hardern [RR-050].</li> </ul>	<p>The APs highlighted blue might be the same people- there is no further info on Messrs J and E Williams within the report.</p> <p>Encirc Limited is missing from the list.</p>	<p>reference to Michael A. Jones &amp; Sarah M. Jones &amp; T. Benjamin Jones [RR-047] should be retained.</p> <p>Messrs EE (Eryl Edward) &amp; JE (John Elfed) Williams [RR-029] and Messrs J &amp; E Williams [RR-069] are the same APs. They have CA/ TP interests in Plots No. 17-42, 17-44, 18-01, 18-33, 19-01, 19-02 and 19-03 and made representations [RR-029], [RR-069], [AS-067] and [REP4-282]. Paragraphs 8.7.12 to 8.7.15 of the Recommendation Report are relevant to this AP.</p> <p>Mr E. and Mrs J. Williams [RR-048] are different people to those detailed above and have a CA/ TP interest in Plot No. 17-26. Paragraphs 8.7.60 to 8.7.63 of the Recommendation Report are relevant to this AP.</p> <p>As such the text in blue should read:</p>

Page No.	Paragraph	Error	Correction	ExA response
		<ul style="list-style-type: none"> <li>□ The Hewitt Family [RR-053].</li> <li>□ Andrew and Karen Hirst [RR-041].</li> <li>□ Mr B., Mrs S. &amp; Mr M. Jones (Mollington) [RR-047].</li> <li>□ Frances Isobel Jones, Kevin Glyn Jones, and Sarah Ann Jones [RR-072].</li> <li>□ Michael A. Jones and Sarah M. Jones and T. Benjamin Jones [RR-047].</li> <li>□ Richard Benjamin Jones (R B &amp; J Jones and Son) [REP1-081].</li> <li>□ Andrew Mullock [RR-042].</li> <li>□ Messrs H W Oultram &amp; Co, Miss C Oultram &amp; Messrs S &amp; A Oultram [RR-030].</li> <li>□ John Calvin Peers [RR-046].</li> <li>□ Myles David Platt [RR-049].</li> <li>□ Stephanie Roberts [RR-051].</li> <li>□ Gillian Stevenson [RR-037].</li> <li>□ Messrs AM &amp; JM Walton [RR-028].</li> <li>□ Philip Warrington [RR-068] and Vera Elaine Warrington [RR-082].</li> <li>□ Mr E. and Mrs J. Williams [RR-048].</li> <li>□ Messrs EE &amp; JE Williams [RR-029].</li> <li>□ Messrs J &amp; E Williams [RR-069].</li> <li>□ Carl Woods [RR-009].</li> <li>□ Messrs J Wrench &amp; Son [RR-031].</li> </ul>		<ul style="list-style-type: none"> <li>▪ Mr E. and Mrs J. Williams [RR-048].</li> <li>▪ Messrs EE &amp; JE Williams [RR-029] and [RR-069].</li> </ul> <p>Turning to Encirc Limited being missing from the list at paragraph 8.6.1, the paragraph reads "<u>At the start of the Examination</u>, the following APs objected to or raised concerns in regard to CA and TP proposals..." (Underlining is my emphasis). Encirc Limited did not raise concerns at the start of the Examination and did not make any representations to the Examining Authority until Deadline 2 (23 May 2023), some 2 months after commencement of the Examination. As such they were not included in the list at paragraph 8.6.1, as this paragraph only listed submissions made at the start of the Examination.</p>

Page No.	Paragraph	Error	Correction	ExA response
246	8.6.4	<p>[AS-073] was submitted during the Examination by J Bradburn Price and Co, on behalf of a number of APs who had already objected to or raised concerns in regard to CA and TP at the start of the Examination.</p> <p>However, it also included three number APs and raised objections in regard to CA and TP on their behalf. These new APs are listed below:</p> <ul style="list-style-type: none"> <li>□ Michelle Elford [AS-073].</li> <li>□ Mr &amp; Mrs K.N. Garner [AS-073].</li> <li>□ Mr R, Mrs N., Mr I &amp; Mr G Jones [AS-073].</li> </ul>	Delete 'number' and replace with 'new'	Agree
256	8.6.10 (Table 4)	**Signifies only Emma Clare Craven-Smith-Milnes is not listed in the BoR against that plot number.	Delete 'not'	Not agreed. According to the BoR Emma Clare Craven-Smith-Milnes has no interests in plot numbers 5-01, 5-02, 5-03. Therefore, if any word should be deleted, it should be the word 'only'.
288	8.7.170	Brian Cook raised concerns regarding CA/ TP in RR [RR-005]. These concerns related to the 1.5 acres adjacent his property that he uses for training his dogs and growing fruit and other small plants. He suggests the pipeline be realigned to the other side of his boundary, so it runs through and adjoining	Replace 'and' for 'an' before adjoining	Agree

Page No.	Paragraph	Error	Correction	ExA response
		farmer's field, feeling such realignment to be more economically viable. Mr Cook also indicated Rostons were appointed to act on his behalf, however, the ExA notes no such submissions from Rostons on behalf of Mr Cook were received during the Examination.		
385	9.2.54	Irrespective of the above, As such, should the SoS for the DESNZ be minded to make the DCO they will need to satisfy themselves that the wording of the PP contained in Schedule 10, Part 7 of the DCO are as finally agreed between the Applicant and CRT and that the parties are satisfied in relation to any voluntary land agreements completed between these parties.	Replace 'CRT' with 'WWU'	Agree. Additionally Part 7 needs to be corrected to read Part 10.
423	10.2.1	Cadent Gas Limited (Cadent) in regard to Part 6 (For the Protection of Cadent);	Should be part 5	Agree

# 1. INTRODUCTION

## 1.1. INTRODUCTION TO THE EXAMINATION

1.1.1. The application for HyNet Carbon Dioxide (CO<sub>2</sub>) Pipeline (the Proposed Development) was submitted by Liverpool Bay CCS Limited (the Applicant) to the Planning Inspectorate on 3 October 2022 under section (s) 31 of the Planning Act 2008 (PA2008) and accepted for Examination under s55 of the PA2008 on 31 October 2022 [PD-001] (Welsh) and [PD-002] (English).

1.1.2. The Proposed Development comprises the construction, operation, and maintenance of a new underground CO<sub>2</sub> pipeline from Cheshire, England to Flintshire, Wales. The Authorised Development would consist of a 60.4-kilometre (km) pipeline and related infrastructure. A summary of the components of the Proposed Development are set out below:

- Newbuild (CO<sub>2</sub>) pipeline:
  - Ince AGI to Stanlow AGI Pipeline – a 4km section of new underground onshore pipeline (20" in diameter) to transport CO<sub>2</sub>;
  - Stanlow AGI to Flint AGI Pipeline – a 32km section of new underground onshore pipeline (36" in diameter) to transport CO<sub>2</sub>; and
  - Flint AGI to Flint Connection Pipeline – a 0.4km section of new underground onshore pipeline (24" in diameter) to transport CO<sub>2</sub>;
- Repurposed existing natural gas pipeline of some 24km that currently transports natural gas but would be repurposed and reused to transport CO<sub>2</sub>, referred to as the Flint Connection to Point of Ayr (PoA) Terminal Pipeline – a section of existing Connah's Quay to PoA underground onshore pipeline (24" in diameter);
- four AGIs – Ince, Stanlow, Northop Hall, and Flint;
- six Block Valve Stations (BVSs) - located along:
  - the new Stanlow AGI to Flint AGI Pipeline (three in total);
  - the existing Flint Connection to PoA Terminal Pipeline (three in total);
- other above ground infrastructure, including cathodic protection transformer rectifier cabinets and pipeline marker posts;
- utility connection infrastructure, including power utilities and fibre optic cable; and
- temporary ancillary works integral to the construction of the CO<sub>2</sub> pipeline, including construction compounds and temporary access tracks.

1.1.3. Section 2 of the Explanatory Memorandum (EM) documents [REP7-017] (related to the Applicant's preferred version of the Development Consent Order (DCO) (the trenched crossing version) and [REP7-018] (being the EM related to the other version of the DCO) (the embedded pipe bridge version) set out the development for which development consent is required, as a Nationally Significant Infrastructure Project (NSIP).

- 1.1.4. Two versions of the DCO have been proposed by the Applicant in relation to how the Proposed Development will cross the Alltami Brook in Wales. The reasons for this are explained in more detail in Chapter 5 of this report. However, in relation to the two versions of the DCO, the Applicant's ES Chapter 3 (Description of the Proposed Development) [REP7-036] describes the method of construction related to each version as:
- Applicant's Preferred version, being the trenched crossing of the Alltami Brook, by excavation of an open trench, lowering of the pipe into the trench, and backfilling with the excavated material.
  - Other version, being an embedded pipe bridge crossing of the Alltami Brook, where the pipeline emerges from the ground, either side of the Alltami Brook, and is carried across the Brook embedded within a bridge crossing mounted on foundations. This structure would be primarily constructed from concrete.
- 1.1.5. Section 2 of these EMs also explain the Applicant has had regard to the restriction on the inclusion of 'Associated Development' in Wales, providing a further explanation in its Planning Statement [REP4-022] at paragraph 1.4.2 that the definition of 'pipeline' includes any apparatus and works associated therewith, specifically including valves, power supplies and communications infrastructure. The Applicant therefore considers that all of the elements necessary to operate the pipeline fall within the definition of 'pipeline' and that no 'Associated Development' is being proposed. (The matter of 'Associated Development' is discussed in more detail at Chapter 4.8 of this report).
- 1.1.6. The EMs [REP7-017] and [REP7-018] also set out that Schedule 1, Part 1 of the draft DCO (dDCO) specifies the various elements of the 'Authorised Development', whilst Schedule 1, Part 2 of the dDCO describes 'ancillary works'. Work Numbers 1 to 57N constitute the proposed 'Authorised Development' and are set out as detailed at Annex A of this Recommendation Report, as is the definition of 'ancillary works'.
- 1.1.7. The DCO, if made, shall be named the "HyNet Carbon Dioxide Pipeline Order...", with the year in which the Order is made specified at the end of the Order name.
- 1.1.8. The route description of the Proposed Development is set out in the Environmental Statement (ES) at Chapter 3 [REP7-036] and shown on the following plans, together with their respective Examination Library (EL) reference numbers:
- Location Plan [REP7-006];
  - Land Plans [CR3-003], consisting of a key plan and 38 separate sheets numbered 1, 1A and 2 to 37 (inclusive);
  - Work Plans [REP7-007], consisting of a key plan and 38 separate sheets numbered 1, 1A and 2 to 37 (inclusive);
  - Special Category Land Plans [REP7-008], consisting of one plan marked Sheet 1;
  - Crown Land Plans [CR3-004], consisting of a key plan and 8 separate sheets numbered 6 to 9 (inclusive), 17 to 19 (inclusive) and 22;



- Access and Rights of Way Plans [REP8-004], consisting of a key plan and 38 separate sheets numbered 1, 1A and 2 to 37 (inclusive);
  - AGI Planning Location Plans [REP7-010], consisting of 4 sheets numbered 1 to 4 (inclusive);
  - AGI Elevations Plans [REP2-007], consisting of 4 sheets numbered 1 to 4 (inclusive);
  - BVS Location Plan [CR1-014], consisting of 6 sheets numbered 1 to 6 (inclusive);
  - BVS Elevations Plans [REP2-006], consisting of 6 sheets numbered 1 to 6 (inclusive); and
  - indicative plans consisting of:
    - AGI Planning Arrangement Plans [REP7-011], consisting of 4 sheets numbered 1 to 4 (inclusive); and
    - BVS Planning Arrangement Plans [REP7-009] consisting of 6 sheets numbered 1 to 6 (inclusive).
- 1.1.9. Additionally, a description of the 'Order Land'/ 'Order Limits' is set out section 3 of the SoR [REP7-021] and identified on the Land Plans [CR3-003].
- 1.1.10. The Application has evolved throughout the Examination, with the drawings detailed above being the final versions submitted prior to the close of the Examination.
- 1.1.11. The route of the Proposed Development is transboundary running through both Wales and England. The Proposed Development Route lies within the administrative boundaries of Flintshire County Council (FCC) and Cheshire West and Chester Borough Council (CWCC).
- 1.1.12. The legislative tests for whether the Proposed Development is a NSIP were considered by the Secretary of State (SoS) for the Department of Communities and Local Government (now the Department of Levelling Up, Housing and Communities) and in its decision, taken by the Planning Inspectorate on behalf of the SoS, to accept the Application for Examination in accordance with s55 of the PA2008 [PD-001] (Welsh) and PD-002 (English).
- 1.1.13. The application form [AS-003] set out its view that the Proposed Development is an NSIP as it is the construction of a cross-country pipeline with a length that exceeds, or is intended to exceed, 16.093 kilometres (km). The Applicant states the length of the new build element of the pipeline in the DCO Proposed Development is approximately 36km, and as such is a 'cross-country pipeline' which exceeds the threshold.
- 1.1.14. The Planning Inspectorate concluded the Proposed Development to be the construction of a cross-country pipeline, with one end in Wales and the other end in England, other than by a gas transporter that would (but for s33(1) of the PA2008) require authorisation under s1(1) of the Pipelines Act 1962 and is development constituting an NSIP within s21 of the PA2008. Therefore, the Proposed Development requires development

consent in accordance with s31, and meets the definition of an NSIP set out in s14(1)(g), of the PA2008.

## **1.2. APPOINTMENT OF THE EXAMINING AUTHORITY**

1.2.1. On 17 January 2023, Christopher Butler (Panel Lead) and Matthew Shrigley were appointed as the Examining Authority (ExA) for the application under s61 and s65 of the PA2008 [PD-007].

## **1.3. THE PERSONS INVOLVED IN THE EXAMINATION**

1.3.1. The persons involved in the Examination were:

- Persons who were entitled to be Interested Parties (IPs) because they had made a relevant representation (RR) or were a statutory party who requested to become an IP.
- Affected Persons (APs) who were affected by a Compulsory Acquisition (CA) and / or Temporary Possession (TP) proposal made as part of the Application and objected to it at any stage in the Examination.

## **1.4. THE EXAMINATION AND PROCEDURAL DECISIONS**

1.4.1. The Examination began on 20 March 2023 and concluded on 20 September 2023.

1.4.2. The principal components of and events around the Examination are summarised below. A fuller description, timescales and dates can be found on the Examination Timetable page of the project webpage on the Planning Inspectorate's National Infrastructure Planning website<sup>1</sup> and within the Examination Timetable which can be found at Annex A of the ExA's Rule 8 letter [PD-012], as amended by the ExA's procedural decisions to amend the Examination Timetable made under Rule 8(3) of The Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) on the 18 July 2023 [PD-026] and 14 September 2023 [PD-029].

### **The Preliminary Meeting**

1.4.3. On 20 February 2023, the ExA wrote to all IPs, Statutory Parties and Other Persons under Rule 6 of the EPR (The Rule 6 Letter) inviting them to the Preliminary Meeting (PM) [PD-011], outlining:

- the arrangements and agenda for the PM;
- an Initial Assessment of the Principal Issues;
- the draft Examination Timetable;
- availability of RRs and application documents; and
- the ExA's procedural decisions.

1.4.4. The PM took place virtually on 20 March 2023 and was live-streamed. A video recording [EV-001] and a note of the meeting [EV-005] were

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<sup>1</sup> <https://infrastructure.planninginspectorate.gov.uk/projects/wales/hynet-carbon-dioxide-pipeline/?ipcsection=overview>

published on the Planning Inspectorate's National Infrastructure Planning website. The PM and Examination was undertaken with the ability to take part in Welsh, as well as English, with the inclusion of translation facilities.

- 1.4.5. The ExA's procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-012], dated 27 March 2023.

### **Key Procedural Decisions**

- 1.4.6. Most of the procedural decisions set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. Further, they were generally complied with by the Applicant and relevant IPs. The procedural decisions can be obtained from the Rule 8 Letter [PD-012] and so there is no need to reiterate them here.

### **Site Inspections**

- 1.4.7. Site Inspections are held in PA2008 Examinations to ensure that the ExA has an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects.

- 1.4.8. Where the matters for inspection can be viewed from the public domain and there are no other considerations such as personal safety or the need for the identification of relevant features or processes, an Unaccompanied Site Inspection (USI) is held. Where an inspection must be made on land requiring consent to access, there are safety or other technical considerations and / or there are requests made to accompany an inspection, an Accompanied Site Inspection (ASI) is held.

- 1.4.9. The ExA undertook the following USIs:

- USI1 was carried out during daylight hours on 15 November 2022.
- USI2 took place on the morning of 16 November 2022.
- USI3 took place on the morning of 9 June 2023.

- 1.4.10. All three USIs were undertaken to familiarise the ExA with the route of the Proposed Development and surrounding area and to support the Examination. The ExA visited a number of locations and viewed the site from up close and further afield. All locations were publicly accessible. Notes of the USI1, USI2 and USI3, providing a procedural record of each USI, can be found in the EL under references:

- USI1 [EV-003]
- USI2 [EV-004]
- USI3 [EV-004a]

- 1.4.11. The ExA also held the following ASIs:

- ASI1 took place on the afternoon of the 7 August 2023.

- ASI2 took place during daylight hours of 8 August 2023.
- 1.4.12. Both ASI1 and ASI2 were held to familiarise the ExA with the site and look at the physical features that can be seen on, or from it. This included visiting land over which CA/ TP powers are sought and observing the road network, both within and adjoining the route of the Proposed Development. The itinerary for these ASIs can be found in the ExA's Rule 16 letter [PD-021] at Annex A for ASI1 and Annex B for ASI2.
- 1.4.13. The ExA has had regard to the information and impressions obtained during its site inspections in all relevant sections of this Report.

## **Hearing Processes**

- 1.4.14. Hearings are held in PA2008 Examinations in two main circumstances:
- To respond to specific requests from persons who have a right to be heard - in summary:
    - where persons affected by CA and/ or TP proposals, an AP, object and request to be heard at a CA Hearing (CAH); and/ or
    - where IPs request to be heard at an Open Floor Hearing (OFH).
  - To address matters where the ExA considers that a hearing is necessary to inquire orally into matters under examination, typically because they are complex, there is an element of contention or disagreement, or the application of relevant law or policy is not clear.
- 1.4.15. The ExA held a number of hearings to ensure the thorough examination of the issues raised by the Application. Due to the trans-boundary nature of the Proposed Development, running between Wales and England, the hearings were held in two separate locations over two separate weeks, some 2 months apart, and included translation facilities enabling all participants the opportunity to participate. These hearings were held virtually on Microsoft Teams and livestreamed, as well as being recorded and published on the National Infrastructure Planning website.
- 1.4.16. The first set of hearings commenced the week beginning 5 June 2023. These were held in person at the Village Hotel, St David's Park, Ewloe, Flintshire, CH5 3YB, an accessible and broadly central location to the line of the route of the Proposed Development in North Wales, and therefore considered an appropriate location for IPs to attend.
- 1.4.17. The second set of hearings were held over two days on 9 and 10 August 2023. These were held in person at The Crowne Plaza, Trinity Street, Chester, CH1 2BD, an accessible and broadly central location to the line of the route of the Proposed Development in England, and therefore considered an appropriate location for IPs to attend.
- 1.4.18. Three Issue Specific Hearing (ISHs) were held under s91 of the PA2008 as follows:
- The first ISH into Environmental Matters (ISH1) was held on 6 June 2023. ISH1 sat in three sessions, with all sessions also held virtually

on Microsoft Teams, livestreamed, and video recorded. The recordings of the ISH1 Session 1 [EV-008], ISH1 Session 2 [EV-009] and ISH1 Session 3 [EV-010] have been published on the Planning Inspectorate's National Infrastructure Planning website.

- The second ISH into the dDCO (ISH2) was held on 8 June 2023. ISH2 sat in three sessions, with all sessions also held virtually on Microsoft Teams, livestreamed, and video recorded. The recordings of the ISH2 Session 1 [EV-020], ISH2 Session 2 [EV-021] and ISH2 Session 3 [EV-022] have been published on the Planning Inspectorate's National Infrastructure Planning website.
- The third ISH was a stacked hearing where both Environmental Matters and the dDCO were heard in the same hearing (ISH3). It was held on 9 August 2023 and sat in three sessions, with all sessions also held virtually on Microsoft Teams, livestreamed, and video recorded. The recordings of the ISH3 Session 1 [EV-028], ISH3 Session 2 [EV-029] and ISH3 Session 3 [EV-030] have been published on the Planning Inspectorate's National Infrastructure Planning website.

1.4.19. Two CAH were held under s92 of the PA2008 as follows:

- The first CAH (CAH1) was held on 7 June 2023 and sat in three sessions, with all sessions also held virtually on Microsoft Teams, livestreamed, and video recorded. The recordings of the CAH1 Session 1 [EV-014], CAH2 Session 2 [EV-015] and CAH1 Session 3 [EV-016] have been published on the Planning Inspectorate's National Infrastructure Planning website.
- The second CAH (CAH2) was held on 10 August 2023 and sat in two sessions, with both sessions also being held virtually on Microsoft Teams, livestreamed, and video recorded. The recordings of the CAH2 Session 1 [EV-034] and CAH2 Session 2 [EV-035] have been published on the Planning Inspectorate's National Infrastructure Planning website.

1.4.20. All persons affected by CA and/or TP proposals (APs) were provided with an opportunity to be heard. The ExA also used these hearings to examine the Applicants case for CA and TP more generally.

1.4.21. An OFH was held under s93 of the PA2008 on the afternoon of 10 August 2023 and sat in two sessions, with both sessions also being held virtually on Microsoft Teams, livestreamed, and video recorded. The recordings of the OFH Session 1 [EV-038] and OFH Session 2 [EV-039] have been published on the Planning Inspectorate's National Infrastructure Planning website. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise.

## **Written Processes**

1.4.22. Examination under the PA2008 is primarily a written process, in which the ExA has regard to written material forming the Application and arising from the Examination. All of this material is recorded in the EL (Appendix B) and published online. Individual document references to the EL in this report are enclosed in square brackets [], with Appendix B (Examination Library) providing hyperlinks to the original document held

online. For this reason, this Report does not contain extensive summaries of all documents and representations, although full regard has been had to them in the ExA's conclusions. The ExA has considered all important and relevant matters arising from them.

1.4.23. Key written sources are set out further below.

### **Relevant Representations**

1.4.24. Eighty-three RRs were received by the Planning Inspectorate [RR-001] to [RR-083]. All makers of RRs received the Rule 6 Letter and were provided with an opportunity to become involved in the Examination as IPs. All RRs have been fully considered by the ExA. The issues that they raise are considered in Chapters 4, 5, 6 and 8 of this Report.

### **Written Representations and Other Examination Documents**

1.4.25. The Applicant and IPs were provided with opportunities to:

- make written representations (WRs) (Deadline (DL) 1);
- comment on WRs made by the Applicant and other IPs (DL2);
- summarise their oral submissions at hearings in writing (DL4 and DL7);
- make other written submissions requested or accepted by the ExA; and
- comment on the Report on Implications for European Sites (RIES) [OD-008] published on 1 August 2023 by DL7.

1.4.26. All WRs and other examination documents have been fully considered by the ExA. The issues that they raise are considered in Chapters 4, 5, 6 and 8 of this Report.

### **Local Impact Report(s)**

1.4.27. A Local Impact Report (LIR) is a report made by a relevant local authority giving details of the likely impact of the Proposed Development on the authority's area (or any part of that area) that has been invited and submitted to the ExA under s60 of the PA2008.

1.4.28. LIRs, together with appendices, have been received by the ExA from the following relevant local authorities:

- CWCC – LIR [REP1A-002], Appendix [REP1A-003]; and
- FCC [REP1A-005], Appendix [REP1A-006].

1.4.29. The LIRs have been taken fully into account by the ExA in all relevant Chapters of this Report.

### **Statements of Common Ground**

1.4.30. A Statement of Common Ground (SoCG) is a statement agreed between the Applicant and one or more IPs, recording matters that are agreed between them.

- 1.4.31. By the end of the Examination, the following bodies had concluded SoCGs with the Applicant:
- 2 Sisters Food Group / Amber Real Estate [REP7-275].
  - Cadw [REP6A-010].
  - Canal & River Trust [REP7-265].
  - CWCC [REP8-021].
  - Environment Agency (EA) [REP9-004].
  - Essar Oil (UK) Limited [REP9-008].
  - FCC [REP7-259].
  - Historic England [REP6A-009].
  - HyNet North West Hydrogen Pipeline [REP7-280].
  - National Highways [REP7-263].
  - Natural England (NE) [REP8-022].
  - Natural Resources Wales (NRW) [REP7-261].
  - Network Rail England and Wales [REP8-026].
  - Peel NRE Limited [REP7-262].
  - Royal Mail Group Limited [REP7-270].
  - Scottish Power Energy Networks [REP7-267].
  - Vertex Hydrogen Limited [REP8-027].
  - Wales & West Utilities [REP9-009].
  - Welsh Government [REP7-264].
  - Welsh Water (Dŵr Cymru) [REP7-266].
  - Woodland Trust (The) [REP6A-015].
- 1.4.32. The ExA has taken all of the SoCGs listed above into account in all relevant chapters of this report.
- 1.4.33. The Applicant claimed to have concluded a SoCG with Encirc Limited at DL9, but failed to enter that document into the Examination. As such by the Close of the Examination draft SoCGs between the Applicant and the following IPs had been submitted:
- British Pipeline Agency [REP5-010].
  - Cadent Gas [REP9-003].
  - Encirc Limited [REP6-026].
  - Exolum Pipeline Systems [REP6A-013].
  - National Grid Electricity Transmission [REP6-017].
  - National Gas Transmission [REP6-018].
- 1.4.34. As the above draft SoCGs remained unsigned/ undated at the close of the Examination the ExA has afforded them only limited weight in relation to the recommendation.
- 1.4.35. The ExA also requested SoCGs be sought with CF Fertilizers UK Limited, The Coal Authority, The Health and Safety Executive (HSE), The Maritime and Coastguard Agency, the United Kingdom (UK) Health Security Agency and United Utilities. However, the Applicant advised in its 'Statement for Commonality of Statements of Common Ground' [REP9-006], submitted at DL9, that despite offering a SoCG to these bodies they declined to enter into a SoCG for the following reasons:

- CF Fertilizers UK Ltd, confirmed it *"...wishes to rely on the Protective Provisions, and not enter into a SoCG."* A copy of the e-mail from CF Fertilizers UK Ltd to the Applicant, dated 20 July 2023, confirming this position is located in Appendix A of the Applicant's Statement for Commonality of SoCG [REP9-006].
- The Coal Authority, confirmed *"...there does not appear to be any disagreement in respect of the further works necessary ...to ensure that land stability issues are appropriately investigated and dealt with. ... there is no difference of opinion in this case and ...a formal SoCG is not required."* A copy of the e-mail from the Coal Authority to the Applicant, dated 28 March 2023, confirming this position is located in Appendix A of the Applicant's Statement for Commonality of SoCG [REP9-006].
- The HSE - The Applicant advised in its response to the ExA's Rule 17 letter [REP9-012], that it supplied a draft SoCG to the HSE but on 20 September 2023 it confirmed *"...they [the HSE] have responded directly to the ExA instead of liaising with the Applicant on the draft SoCG, therefore no SoCG is submitted."*
- The Maritime and Coastguard Agency, confirmed it was *"...content our remit will be suitably addressed through the marine licensing regime and that there is no need to progress with a SoCG for this DCO for the HyNet Project."* A copy of the letter from the MCA to the Applicant, dated 17 March 2023, confirming this position is located in Appendix A of the Applicant's Statement for Commonality of SoCG [REP9-006].
- The UK Health Security Agency, confirmed in a letter to the Applicant that overall it was *"...satisfied that there are no outstanding areas of concern or disagreement and therefore suggest that a SoCG is not required."* A copy of this letter, which is dated 26 April 2023, can be located in Appendix A of the Applicant's Statement for Commonality of SoCG [REP9-006].
- United Utilities Water Ltd, in its submission at DL9 [REP9-018] confirmed *"...it has now agreed a set of specific Protective Provisions with the Applicant..."* and it has *"...chosen to not pursue the formal SoCG."*

1.4.36. In addition to the above, the ExA noted the Applicant's Statement for Commonality of SoCG [REP9-006], submitted at DL9, advises discussions related to SoCG with the companies set out below were paused by the Applicant for the following reasons:

- Anesco, due to lack of stakeholder engagement to date.
- Enso Energy, due to lack of stakeholder engagement to date.
- Lanes End Development Limited, as the Applicant noted that company had recently gone into administration.
- Shell, as it confirmed with the Applicant that it no longer wishes to proceed with a SoCG. The Applicant indicates that correspondence between this IP and the Applicant can be found at Appendix A of the Applicant's Statement for Commonality of SoCG [REP9-006]. However, it is not clear from that correspondence that the writer represents Shell or its interests.
- Redrow PLC, due to lack of stakeholder engagement to date.



1.4.37. The SoCG(s) (other than unsigned or incomplete ones referred to above) have been taken fully into account by the ExA in all relevant Chapters of this Report.

### **Written Questions**

1.4.38. The ExA asked three rounds of written questions.

- First written questions (ExQ1) [PD-013] (Welsh)/ [PD-014] (English) and procedural decisions were set out in the Rule 8 letter [PD-012], dated 27 March 2023.
- Second written questions (ExQ2) [PD-022] were issued on 15 June 2023.
- Third written questions (ExQ3) [PD-027] were issued on 15 August 2023.

1.4.39. A request for further information and comments were sought under Rule 17 of the EPR on 14 September 2023 [PD-028]. It sought updates regarding:

- the matter of detriment to Statutory Undertakers' (SU) undertakings in the absence of SUs withdrawing any outstanding objection, prior to the close of the Examination, including the absence of written confirmation from SUs about the status of the protective provisions and any necessary side agreements;
- CA/ TP and progress made;
- progress on reaching agreement with specified IPs in regard to SoCGs;
- NE's letter of no impediment;
- whether the dDCO at Schedule 3 covers all parts of the Strategic Road Network (SRN), in the light of National Highways position that tunnelling works beneath the SRN are street works (See National Highways DL7 and DL8 submissions of National Highways [REP7-316] and [REP8-046], as supported by CWCC [REP7-306], [REP8-041], [REP8-041a] and [REP8-042] and FCC [REP8-044]). Should the ExA concluded that the tunnelling works beneath the SRN are street works are any other changes to the DCO would be required;
- specific wording regarding Protective Provisions in favour of Exolum (See Exolum's DL8 submissions [REP8-050] and [REP8-051]);
- the status of any s111 agreement(s), being completed under the Local Government Act 1972, and any Planning Performance Agreements being completed between the Applicant and CWCC and/ or FCC;
- clarification regarding reference to the completion of a s106 agreement under the Town and Country Planning Act 1990 (See FCCs DL8 submission [REP8-044]);
- an update regarding outstanding Crown consent(s) required from the Crown Estate;
- responses to representations made at DL8 by the EA [REP8-043] and the HSE [REP8-045]; and
- evidence of Shell confirming they did not wish to proceed with a SoCG.

1.4.40. All responses to the ExAs written questions have been fully considered and taken into account in all relevant Chapters of this Report.

### **Requests to Join and Leave the Examination**

1.4.41. There were a number of late requests received by parties to become IPs and those parties were confirmed as IPs by the ExA on:

- 17 February 2023:
  - British Pipeline Agency Limited [PD-008],
  - Cellnex UK [PD-009]; and
  - Nicola Berrow [PD-010].
- 19 April 2023:
  - Wireless Infrastructure Group [PD-015]

1.4.42. The persons/ organisations on the list above were automatically IPs because they were an AP and as such fall under the provisions of s102(A) of the PA2008.

1.4.43. On the 26 April 2023 the ExA exercised its discretion to accept an Additional Submission from Stephen Gibbins [AS-064], a non-IP, who was seeking to promote an alternative route for the Proposed Development. The Applicant in its response to DL1 submissions [REP1-042], at table 2.14, noted Mr Gibbins's multiple submissions made to them in 2021 and 2022, as well as his proposal for a Northern Corridor route. It confirmed it had set out the reasons for not proceeding with the alternative route promoted by him, which were also set out in its response to the DL1 submissions [REP1-042], in its response to him dated 8 July 2021. The Applicant also highlighted its ES at Chapter 4 (Consideration of Alternatives) [APP-056] (updated at DL7 by [REP7-038]), which provides the assessment of alternatives for the Proposed Development, including pipeline route options.

1.4.44. There were no other requests to join the Examination by persons who were not already IPs at or after the PM.

1.4.45. During the Examination, no persons wrote to the ExA to formally record the settlement of their issues and the withdrawal of their representations.

## **1.5. ENVIRONMENTAL IMPACT ASSESSMENT**

1.5.1. The Applicant provided a notification under Regulation 8(1)(b) of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) of its intention to provide an Environmental Statement (ES). Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the ExA determined that the Proposed Development was EIA development.

1.5.2. On 3 June 2021, the Applicant submitted a Scoping Report to the SoS under Regulation 10 of the EIA Regulations in order to request an opinion

about the scope of the ES to be prepared (a Scoping Opinion) [APP-073] to [APP-075] (inclusive) (These documents were subsequently re-submitted into the Examination as [REP7-069] to [REP7-071] (inclusive)).

- 1.5.3. In response the Planning Inspectorate provided a Scoping Opinion [APP-076] (subsequently re-submitted into the Examination as [REP7-072]) in July 2021.
- 1.5.4. Overall, the ExA considers that the ES, as supplemented with additional information during the Examination, is sufficient to enable the SoS to take a decision in compliance with the EIA Regulations.
- 1.5.5. The ExA considered that changes to the documentation, comprising the ES during the Examination, together with the change requests (see section 2.2 of this report) did not individually or cumulatively undermine the scope and assessment of the ES. Chapter 3 of this report will summarise the environmental effects under each topic section.
- 1.5.6. The ES submitted with the proposed Development consisted of the following documents: [APP-053] to [APP-221]. These were subsequently re-submitted into the Examination as:
  - REP7-030 to REP7-034 (evens);
  - REP7-035; REP7-036 to REP7-040 (evens);
  - REP7-041; REP7-042 to REP7-054 (evens);
  - REP7-055 to REP7-069 (odds);
  - REP7-070 to REP7-077 (inclusive);
  - REP7-079 to REP7-83 (inclusive);
  - REP7-085 to REP7-087 (inclusive);
  - REP7-089 to REP7-109 (odds);
  - REP7-110 to REP7-130 (inclusive);
  - REP7-132 to REP7-136 (inclusive);
  - REP7-138;
  - REP7-140;
  - REP7-141 to REP7-149 (odds);
  - REP7-152;
  - REP7-153 to REP7-163 (odds);
  - REP7-164 to REP7-170 (evens);
  - REP8-013;
  - REP7-174;
  - REP7-175;
  - REP8-015 to REP8-017 (inclusive);
  - REP7-184;
  - REP7-185; and
  - REP7-187 to REP7-235 (inclusive)).
- 1.5.7. On 18 January 2023 the Applicant provided the Planning Inspectorate with a certificate confirming that Regulation 16 of the EIA Regulations had been complied with [OD-002].
- 1.5.8. Consideration is given to the adequacy of the ES and matters arising from it in Chapters 4 and 5 of this Report.

## **1.6. HABITATS REGULATIONS ASSESSMENT**

- 1.6.1. The Proposed Development is development for which a Habitats Regulations Assessment (HRA) Report has been provided.
- 1.6.2. Consideration is given to the adequacy of the HRA Report, associated information and evidence and the matters arising from it in Chapters 4, 5 and 6 of this Report.

## **1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS**

- 1.7.1. By the end of the Examination, there were no matters subject to any separate undertakings, obligations and/ or agreements. All relevant considerations are addressed in this Report as bearing on the DCO.

## **1.8. OTHER CONSENTS**

- 1.8.1. The Application documentation and questions during this Examination have identified the following consents that the Proposed Development has obtained or must obtain, in addition to Development Consent under the PA2008. The latest position on these is recorded below.
- 1.8.2. As relevant to Wales only:
- **A Site of Special Scientific Interest Assent/ Consent** under s28 of the Wildlife and Countryside Act 1981 for construction activities within/ affecting site(s) of special scientific interest, potentially including the River Dee (Afon Dyfrdwy) crossing.  
Regulator: NRW.  
Position: Apply for prior to the start of construction (or prior to specific construction activities), if required.
  - **A Marine Licence** under the Marine and Coastal Access Act 2009, would be required for activities undertaken within a marine licensable area for the River Dee (Afon Dyfrdwy) crossing.  
Regulator: NRW, as the River Dee (Afon Dyfrdwy) crossing point is located wholly in Wales and NRW are the regulator below mean high water springs and out to 12 nautical miles.  
Position: The Applicant in its 'Response to ExQ3' [REP8-036] confirmed its Marine Licence Application was re-submitted on the 1 September 2023, following its previous withdrawal.
  - **Marine Licence exemptions** under the Marine and Coastal Access Act 2010 and Marine Licensing (Exempted Activities) (Wales) Order 2011 in relation to activities undertaken within a marine licensable area.  
Regulator: NRW.  
Position: Apply for prior to the start of construction (or prior to specific construction activities), if required.
  - **Approval of surface water drainage system** under the Flood and Water Management Act 2010 (Schedule 3) and The Sustainable Drainage (Approval and Adoption Procedure) (Wales) Regulations

2018, as drainage systems must be approved by FCC, acting in its capacity as the Sustainable Drainage Approving Body within its jurisdiction.

Regulator: NRW.

Position: Apply for prior to the start of construction (or prior to specific construction activities).

### 1.8.3. As relevant to Wales and England:

- **An Environmental Permit** under the Environmental Permitting (England and Wales) Regulations 2016, in relation to:
  - Installation Permit  
Consent/ Licence/ Permit: An A1 Installation Permit (Bespoke) related to Schedule 1 listed activities; and an A1 Installation permit - standard rules (low impact) related to low impact installation activities.  
Regulator: The EA and NRW.  
Position: Apply for prior to the start of construction (or prior to specific construction activities), if required;
  - Waste  
Consent/ Licence/ Permit: Bespoke; Standard Rules; Exemptions; and Regulatory Position Statement – All related to Waste Operations.  
Regulator: The EA and NRW.  
Position: Apply for prior to the start of construction (or prior to specific construction activities), if required;
  - Air Quality  
Consent/ Licence/ Permit: Specified generator permit - standard rules (low risk), simple bespoke (low risk) or complex bespoke (high risk) to cover emissions of sulphur dioxide, nitrogen oxides and dust to air as it applies to generators with a capacity of between 1 Megawatt Thermal energy (MWth) and 50MWth burning any fuel.  
Regulator: The EA and NRW.  
Position: Apply for prior to the start of construction (or prior to specific construction activities), if required;
  - Mobile Plant  
Consent/ Licence/ Permit:
    - i) Standard Rules (SR2008No27) for Mobile Plant for treatment or soils and contaminated material, substances or products for the treatment, waste recovery, mixing, blending, ex-situ treatment of pumped groundwater.
    - ii) Standard Rules (SR2010No5) for Mobile Plant for reclamation, restoration or improvement of land related to the storage and mixing of permitted wastes.
    - iii) Mobile crushing and screening plant permit for the crushing, grinding or size reduction, with machinery designed for that purpose of: bricks, tile or concrete or any designated mineral, as well as screening the product.

Regulator: The EA and NRW.

Position: Apply for prior to the start of construction (or prior to specific construction activities), if required;

- Flood Risk

Consent/ Licence/ Permit:

- i) Flood Risk Activity Permit – Bespoke related to all temporary and permanent works on or near a main river, on or near a flood defence structure, on or near a sea defence or in a flood plain.
- ii) Flood Risk Activity – Exemption related to some level of construction or maintenance of structures, repair, improvement works, etc.
- iii) Flood Risk Activity Permit – Exclusion related to smaller scale works eg works within or on existing structures, signage, fences, works carried out in an emergency.

Regulator: The EA and NRW.

Position: Apply for prior to the start of construction (or prior to specific construction activities), if required; and

- Consent/ Licence/ Permit for discharge to surface water may be required for discharge of uncontaminated surface water from any dewatering of excavations if this lasts for more than three continuous months.

Regulator: The EA.

Position: Application to be submitted prior to the construction, if required by the contractor.

- **A COMAH Licence** under the Control of Major Accident Hazards (COMAH) Regulations 2015 may be required or notification may be needed in relation to the Stanlow AGI in relation to the new AGI.

Regulator: HSE.

Position: The Applicant indicates application(s) or notification(s) to be made, if required, by the Stanlow Site operator.

Note: The Applicant stresses it will abide by regulations to prevent major accidents involving dangerous substances in terms of any activity which may present a risk of an accident involving dangerous substances. However, it also notes CO<sub>2</sub> is not currently classified as a Dangerous Substance under COMAH.

- **Groundwater Investigation Consent**, under s32 of the Water Resources Act 1991 (as amended) for permission to construct a borehole or well, excavate a catchpit, complete pumping tests and abstract more than 20 cubic metres (m<sup>3</sup>) of water a day for testing.

Regulator: The EA.

Position: Application to be submitted post-making of this DCO, as well as pre-construction and construction stages, if required.

Note: The groundwater investigation consent will show if there is groundwater present and what effect abstracting groundwater would have on the environment.

- **Construction Noise Consent** under s61 of the Control of Pollution Act 1974 may be required prior to construction of the Proposed Development for any works that may cause noise nuisance. Regulator: CWCC and FCC (in relation to their respective jurisdictions). Position: Would be applied for prior to the start of construction, or prior to specific construction activities, if required.
- **Mobile Crushing and screening plant permit** under the Pollution Prevention and Control Act, 1999 for the crushing grinding or size reduction, with machinery designed for that purpose of: bricks, tile or concrete or any designated mineral, together with screening the product. Regulator: CWCC or FCC (as relevant to their jurisdiction); the EA; and NRW. Position: Apply for prior to the start of construction (or prior to specific construction activities), if required;
- **A Permit for Transport of Abnormal Loads** under the Road Vehicles (Authorisation of Special Types) (General) Order 2003 or under the Road Traffic Act 1988. Regulator: Vehicle Certification Agency; National Highways; and CWCC or FCC, acting as the Local Highway Authority in respect to their respective jurisdictions. Position: Would be applied for prior to the start of construction, or prior to specific construction activities, if required.
- **Building Regulations Approval** under the Building Regulations Act 2010 (as amended) will be required in respect of buildings and structures forming part of the Proposed Development (AGIs and BVSs are classed as buildings for the purposes of the Building Regulations). Regulator: CWCC and FCC (in relation to their respective jurisdictions). Position: Building Regulations Approval will be sought prior to and during the construction phase, if required, as well as post-construction sign off.
- **A Water Abstraction Licence** under s24 and s25 of The Water Resources Act 1991 and s1 of the Water Act 2003 for:

  - i) Water Abstraction Licence (full) for most types of water abstraction over 20m<sup>3</sup> a day, including surface and groundwater abstraction.
  - ii) Water Abstraction Licence (transfer) to move over 20m<sup>3</sup> of water a day from one source to another without intervening use, including surface and groundwater.
  - iii) Water Abstraction Licence (temporary) to abstract more than 20m<sup>3</sup> of water a day over a period of less than 28 days, including surface and groundwater.

Regulator: The EA and NRW.  
Position: Apply for prior to the start of construction (or prior to specific construction activities), if required.

- **Water Impoundment Licence** under Water Resources Act 1991 (s25) related to any construction, alteration, repairs or removal of existing impoundment structures, or constructing culverts, retaining walls, dams, weirs, or temporary diversions during construction work. Regulator: The EA and NRW.  
Position: Apply for prior to the start of construction (or prior to specific construction activities), if required.
- **Water Impoundment Exemption** under the Water Resources Act 1991 (s25) and Water Abstraction and Impounding (Exemptions) Regulations 2017 where a public authority that manages or owns waterways or harbours constructs any new impoundment, alters an existing impoundment or obstructs or impedes the flow of inland waters while exercising its powers or undertaking its duties; where the impoundment is authorised by a drought order or drought permit; where the persons doing the works are Crown exempt; where structures and works are authorised by legislation (for example an act of Parliament); where the EA serves notice requiring impoundment only for the purpose of screening or passage for eels  
Regulator: The EA and NRW.  
Position: Apply for prior to the start of construction (or prior to specific construction activities), if required.
- **A European Protected Species Licence** under the Conservation of Habitats and Species Regulations 2017 and Wildlife and Countryside Act 1981 (Schedules 5, 6 and 8) required in relation to bats, otter, and great crested newt within England and Wales; required for currently considered impacts to species and their places of shelter/ rest arising from the construction of the Proposed Development.  
Regulator: NE and NRW.  
Position: The Applicant has confirmed submission of draft licences during DCO Examination, with the intention to submit formal European Protected Species licence application prior to construction.
- **A Protected Species Licence for Water Vole** under the Wildlife and Countryside Act 1981 (Schedule 5) for currently considered impacts to water vole and their burrows arising from construction of the Proposed Development.  
Regulator: NE.  
Position: The Applicant advises it intends the submission of draft licences during DCO Examination, with the intention to submit a formal licence application prior to construction.
- **A Badger Licence** under the Protection of Badgers Act 1992 to interfere with setts for development purposes (A24 and LR24) required for currently considered impacts to badger and their setts arising from construction of the Proposed Development.  
Regulator: NE and NRW.  
Position: The Applicant advises it intends the submission of draft licences during DCO Examination, with the intention to submit a formal licence application prior to construction.



- **Consent /Licence/ Permit under the Salmon and Freshwater Fisheries Act 1975** for:
  - i) A permit to translocate fish and authorisation to use fishing instruments other than rod and line in England and Wales (FR2) required for currently considered impacts to fish arising from construction of the Proposed Development.
  - ii) Exemption to work within spawning periods for European eel, lamprey, salmonids and coarse fish species for the Protection of fish and associated habitat, if required.
  - iii) Trapping or remove non-native crayfish in England and Wales (CR1) related to the management of non-native crayfish.  
Regulator: NE and NRW.  
Position: Apply for prior to the start of construction (or prior to specific construction activities), if required.
  
- **Tree Felling Licence** under the Forestry Act 1967 related to the felling of living trees/ hedgerows.  
Regulator: Forestry Commission and NRW, as relevant to their jurisdiction.  
Position: Apply for prior to the start of construction (or prior to specific construction activities), if required.
  
- **The Hazardous Waste Producer Registration** and Waste Consignment Notes required under The Hazardous Waste (England and Wales) Regulations 2005.  
Regulator: The EA and NRW.  
Position: Apply for prior to specific construction activities, if required.
  
- **Licence to be a Waste Carrier, Broker or Dealer**  
Consent/ Licence/ Permit: Waste Transfer Notes; and Waste Carrier Licence  
Regulator: The EA and NRW.  
Position: Apply for prior to specific construction activities.

1.8.4. In relation to the outstanding consents recorded above, the ExA has considered the available information bearing on these and, without prejudice to the exercise of discretion by future decision-makers, has concluded that there are no impediments to the implementation of the Proposed Development, should the SoS make the DCO, which were apparent from the Examination evidence.

1.8.5. It is noted that a copy of a 'letter of no impediment', issued by Natural England to the Applicant, dated 19 September 2023, was submitted by the Applicant in its 'Response to the Rule 17 Request for Information' [REP9-011] (See at Appendix 2 of that document). The 'letters of no impediment' confirmed that following its assessment of the draft great crested newt mitigation licence application, it "*...can now confirm that, on the basis of the information and proposals provided, Natural England sees no impediment to a licence being issued, should the DCO be granted.*"

## 1.9. REPORT STRUCTURE

1.9.1. The structure of this report is as follows:

- **Chapter 1** introduces the reader to the Application, the processes used to carry out the Examination and make this Report.
- **Chapter 2** describes the site and its surrounds, the Proposed Development, its planning history and that of related projects.
- **Chapter 3** records the legal and policy context for the SoS' decision.
- **Chapters 4 and 5** set out the planning issues that arose from the Application and during the Examination.
- **Chapter 6** considers effects on European Sites and HRA.
- **Chapter 7** sets out the balance of planning considerations arising from Chapters 4 and 5, in the light of the factual, legal and policy information in Chapters 1 to 3.
- **Chapter 8** sets out the ExA's examination of CA and TP proposals.
- **Chapter 9** considers the implications of the matters arising from the preceding chapters for the DCO.
- **Chapter 10** summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

1.9.2. This report is supported by the following Appendices:

- **Appendix A** – Authorised Development and Ancillary Works.
- **Appendix B** – the Examination Library.
- **Appendix C** – List of Abbreviations.
- **Appendix D** – the Recommended DCO.
- **Appendix E** – the Trenched Crossing Version of the DCO.

## **2. THE PROPOSAL AND THE SITE**

### **2.1. THE APPLICATION AS MADE**

2.1.1. The application was submitted on 3 October 2022 under section 31 of the Planning Act 2008 (PA2008) [APP-004] and accepted for Examination under section 55 of the PA2008 on 31 October 2022 [PD-001] (Welsh) and [PD-002] (English). The Proposed Development comprises the construction, operation and maintenance of a new underground Carbon Dioxide (CO<sub>2</sub>) pipeline from Cheshire, England to Flintshire, Wales. A summary of the Proposed Development is set out in paragraph 1.1.2 of this report, whilst the location of the site is shown on the Location Plan [REP7-002].

2.1.2. The Application seeks development consent for works as described in the Environmental Statement (ES) Chapter 3 'Description of the Development Consent Order (DCO) Proposed Development' [REP7-036] and the Planning Statement [REP4-022]. Additionally, a description of the 'Order Land/' 'Order Limits' is set out section 3 of the SoR [REP7-021] and identified on the Land Plans [CR3-003].

#### **Proposed Pipeline**

2.1.3. The Applicant states there are three sections of the Newbuild CO<sub>2</sub> Pipeline that form part of the Proposed Development. These are the:

- Ince Above Ground Installation (AGI) to Stanlow AGI Pipeline;
- Stanlow AGI to Flint AGI Pipeline; and
- Flint AGI to Flint Connection Pipeline.

2.1.4. It also states the Newbuild CO<sub>2</sub> Pipeline will connect to upstream emitters, to transport their captured CO<sub>2</sub> and will have a design life of 40 years. The Proposed Development will enable the three sections of Newbuild CO<sub>2</sub> Pipeline, in conjunction with the repurposed Flint Connection to Point of Ayr (PoA) Terminal Pipeline, to carry approximately 4.5 metric tons of CO<sub>2</sub> per year.

2.1.5. It will be built out of steel and accord with the British Standard code of practice for Pipelines (BS PD8010-1). It will be buried underground along its entire length, except for short sections within the AGIs and potentially where it crosses the Alltami Brook in Wales. The depth from the top/ crown of the pipe to the ground surface would vary and depend upon technical factors such as ground conditions, topography and the length of the pipe section. However, the buried depth would be a minimum of 1.2 metres (m) to the crown of the pipe in open cut sections and deeper for trenchless crossings to avoid existing services and physical obstructions. The open cut trench will be between approximately 2.5m and 6m deep to enable pipeline installation.

2.1.6. Open-cut trenching methods will be used for the majority of the Newbuild CO<sub>2</sub> Pipeline, but for complex crossings, to avoid disruption to utilities, major highways, railways, watercourses and/ or particular environmental sensitivities (eg ancient woodland), specialist trenchless installation

techniques would be used, as set out in the Applicant’s Register of Environmental Actions and Commitments [REP7-236].

2.1.7. The final route of the Newbuild CO<sub>2</sub> Pipeline is to be confirmed at the detailed design stage. However, for the purposes of the ES a worst-case scenario approach has been used and the ES assumes that the Newbuild CO<sub>2</sub> Pipeline could be installed anywhere within the “Permanent Acquisition of Subsurface” area as marked in pink on ES Figure 3.2 - DCO Proposed Development [REP7-189].

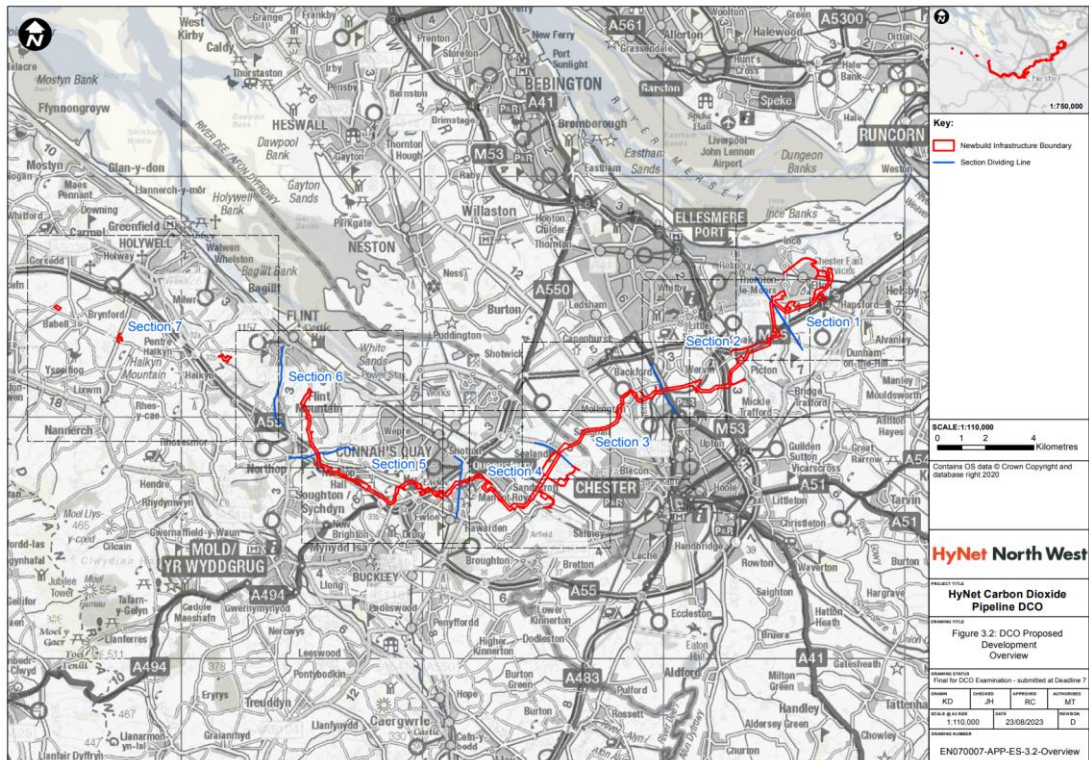


Figure 1 – Drawing Number: EN070007-APP-ES-3.2-Overview – Environmental Statement (ES) Figure 3.2: DCO Proposed Development Overview.

2.1.8. The above-mentioned ES Figure [REP7-189] also separates the Newbuild CO<sub>2</sub> pipeline route into six geographical sections (Sections 1 to 6) and these are described below:

- Section 1 is located entirely within the Local Authority boundary of Cheshire West and Chester Borough Council (CWCC), spanning three Parish Council boundaries (Ince, Elton and Thornton-le-Moors), but predominately lying within the Elton Parish Council boundary. This section includes the Ince AGI, located south-west of the CF Fertiliser Limited Plant off Marsh Lane, and the Stanlow AGI, located within the existing Stanlow Manufacturing Complex. It captures the entire Ince AGI to Stanlow AGI Pipeline and the start of the Stanlow AGI to Flint AGI Pipeline.

In terms of the route description, starting at the Ince AGI, the section route heads southwards to the east of Elton before crossing the

Hapsford railway line (including a spur to an existing depot which serves the Encirc glass factory). The route continues north of the M56 Chester Services (junction 14) before crossing the A5117 Chester Road and heading in a south-westerly direction south of Elton.

The route continues west before heading in a north-westerly direction towards Thornton-le-Moors. The route crosses the B5132 Cryers Lane, before heading northwards to the Stanlow AGI located within the Stanlow Manufacturing Complex. From the Stanlow AGI, the section heads south, crossing the A5117 Chester Road, using trenchless installation techniques, before continuing a southward trajectory east of Thornton-le-Moors.

Trenchless installation techniques within Section 1 are proposed at the locations, as marked on ES Figure 3.2 - DCO Proposed Development [REP7-189] by the reference number provided in brackets `()` next to each location, as set out below:

- Hapsford railway line (including a spur to an existing depot which serves Encirc glass factory) (TRS-01).
  - A5117 Chester Road (north of M56 Chester Services) (TRS-02).
  - Existing utilities (located at (TRS-03) and (TRS-04));
  - A5117 Chester Road (Ince AGI to Stanlow AGI Pipeline) (TRS-05); and
  - A5117 Chester Road (Stanlow AGI to Flint AGI Pipeline) east of Thornton Le Moors) (TRS-06).
- Section 2 is located entirely within the Local Authority boundary of CWCC and spans four Parish Council boundaries (Thornton-le-Moors, Mickle Trafford & District, Wervin, and Backford). It runs between the Stanlow AGI and the A41 and includes a continuation of the Stanlow AGI to Flint AGI Pipeline. It also contains the Rock Bank BVS, located between the settlements of Chorlton and Caughall.

In terms of the route description, this section continues in a southward trajectory east of Thornton-le-Moors and the Goway Meadows Nature Reserve. The route crosses the M56 before heading in a south-westerly direction crossing the River Goway and North Cheshire Way (long distance footpath). The pipeline route crosses Mill Brook and Picton Lane before heading south of Wervin and makes a sharp turn west before crossing the M53. From the M53, the route crosses Wervin Road then runs broadly westwards through arable fields to the north of Chester.

The pipeline route continues in a south-westerly direction before heading west and crossing the Shropshire Union Canal, approximately 600m south-west of Wervin New Hall. The pipeline continues in a north-westerly direction towards Chorlton Lane and then continues in a westerly direction before crossing the A41 Liverpool Road.

Trenchless installation techniques within Section 2 are proposed at the locations, as marked on ES Figure 3.2 - DCO Proposed

Development [REP7-189] by the reference number provided in brackets `()` next to each location, as set out below:

- Existing utilities (six locations) (TRS-07), (TRS-10), (TRS-12), (TRS-13), (TRS-16) and (TRS-19);
  - M56 (TRS-08);
  - River Gowy (TRS-09);
  - Picton Lane (TRS-11);
  - M53 (TRS-14);
  - Wervin Road (TRS-15); and
  - Shropshire Union Canal (TRS-17).
- Section 3 is located predominantly within the Local Authority boundary of CWCC, but part of the section also lies within Flintshire County Council's (FCC) jurisdiction. It spans five Parish Council and Community Council boundaries (Backford, Lea-by-Backford, Mollington, Saughall and Shotwick Park and Sealand). The route of the Newbuild CO<sub>2</sub> Pipeline spans between the A41 and A548 Sealand Road and includes the Mollington BVS to the west of the settlement of Mollington.

In terms of the route description, this section heads west from the A41 Liverpool Road and then continues in a generally south-westerly direction crossing Backford Brook and then the Chester and Birkenhead Railway Line before turning in a north-westerly direction to cross Station Road. The pipeline route then takes a sharp turn to head in a westerly direction towards Mollington, crossing Grove Road. After this the route heads in a south-westerly direction, to the west of the settlement of Mollington, and crosses Townfield Lane and Overwood Lane. It then continues south before crossing the A540 Parkgate Road. At this point, the section continues in a south-westerly direction, exits the Cheshire Plain, crosses Hermitage Road, and then crosses the border into Wales. At the border between Wales and England, the section continues to head in a south-westerly direction and crosses the A548 Sealand Road.

Trenchless installation techniques within Section 3 are proposed at the locations, as marked on ES Figure 3.2 - DCO Proposed Development [REP7-189] by the reference number provided in brackets `()` next to each location, as set out below:

- A41 Liverpool Road (TRS-18);
- Existing utilities (TRS-19);
- Mollington Railway Line (TRS-20);
- Station Road (TRS-21);
- Townfield Lane (TRS-22);
- Overwood Lane (TRS-23);
- A540 (Parkgate Road) TRS-24;
- Hermitage Road (TRS-25);
- Chester Millennium Greenway (TRS-26); and
- A548 Sealand Road (TRS-27).

- Section 4 is located entirely within the Local Authority boundary of FCC and spans three Community Council boundaries (Sealand, Queensferry, and Hawarden). It spans between the A548 Sealand Road and the A550 Gladstone Way.

In terms of the route description of this section, from the A548 Sealand Road it continues south-westerly to cross the River Dee (Afon Dyfrdwy) and North Wales Coast Railway Line before turning west. It then crosses the B5129 Chester Road East heading north-west across Moor Lane towards the built-up sub-urban edge of Sandycroft, Mancot, and Queensferry.

The Newbuild CO<sub>2</sub> pipeline route then weaves through residential areas and crosses several minor roads before turning westwards towards Willow Park. It then continues to head in a westerly direction and runs through the residential areas of Mancot and Pentre before crossing the A550 Gladstone Way.

Trenchless installation techniques within Section 4 are proposed at the locations, as marked on ES Figure 3.2 - DCO Proposed Development [REP7-189] by the reference number provided in brackets `()` next to each location, as set out below:

- River Dee (Afon Dyfrdwy) (TRS-28);
  - North Wales Coast Railway Line and associated ditches (TRS-29);
  - B5129 Chester Road (East) (TRS-30);
  - B5129 Chester Road (West) (in two locations) (TRS-31) and (TRS-32);
  - Mancot Lane (TRS-33); and
  - A550 Gladstone Way (TRS-34).
- Section 5 is located entirely within the Local Authority boundary of FCC and spans three Community Council boundaries (Hawarden, Northop Hall, and Northop). It spans from the A550 Gladstone Way to the B5126 Connah's Quay Road and includes both the Aston Hill BVS and the Northop Hall AGI. The Aston Hill BVS is located within the boundary of Harwarden Community Council between the settlements of Mancot and Ewloe, whilst the Northop Hall AGI is located within the boundary of Northop Hall Community Council to the north of the A55 between the settlements of Northop Hall and Northop.

In terms of the route description for this section, from the A550 Gladstone Way the Newbuild CO<sub>2</sub> pipeline route heads south-west before travelling in a general north-west direction, crossing the Lower Aston Hall Lane, then the Wrexham to Bidston (Borderlands) railway line and the A494 Aston Expressway. It then continues underneath Church Lane before heading north of Aston Hall Farm. The route crosses Shotton Lane before heading in a south-westerly direction towards the B5125 Holywell Road. It crosses the B5125 Holywell Road before heading in a south-westerly direction, crossing Green Lane in two locations before heading north-west towards the A55 North Wales Expressway.

The Newbuild CO<sub>2</sub> pipeline route then follows parallel to the path of the A55 North Wales Expressway heading in a north-westerly direction towards Northop Hall, and crosses Robin Hood Lane. It then crosses Alltami Brook and Brookside south-west of The Northop Hall Country House Hotel and continues in a north-westerly direction skirting around the south-western edge of Northop Hall. The route continues to head north crossing the B5125 Stamford Way before reaching the B5126 Connah's Quay Road.

Trenchless installation techniques within Section 5 are proposed at the locations, as marked on ES Figure 3.2 - DCO Proposed Development [REP7-189] by the reference number provided in brackets '( )' next to each location, as set out below:

- Playground near to Aston Hall (TRS-35);
  - Wrexham to Bidston (Borderlands) railway line (TRS-36);
  - A494 (Aston Expressway) (TRS-37);
  - Church Lane (TRS-38);
  - Holywell Road (TRS-39);
  - Green Lane (TRS-40); and
  - Ancient Woodland near to Northop Hall (TRS-41).
- Section 6 is located entirely within the Local Authority boundary of FCC and spans two Community Council boundaries (Northop and Flint). It spans from the B5126 Connah's Quay Road to the Flint Connection, where the Newbuild CO<sub>2</sub> pipeline connects to the existing Flint Connection to PoA Terminal Pipeline and includes the Flint AGI (The end of the Stanlow AGI to Flint AGI Pipeline and the start of the Flint AGI to Flint Connection Pipeline).

In terms of the route description for this section, from the B5126 Connah's Quay Road, the Newbuild CO<sub>2</sub> pipeline route heads northwards, running west of Leadbrook Wood and crossing Northop Brook. The route continues northwards, and crosses Starkey Lane and then runs parallel with Allt-Goch Lane, before reaching the Flint AGI.

From the Flint AGI, the short section of 24" pipeline runs for approximately 400m in a north-easterly direction before meeting the Flint Connection. At this point, the route connects to the existing Flint Connection to PoA Terminal Pipeline.

Trenchless installation techniques within Section 6 are proposed at the locations, as marked on ES Figure 3.2 - DCO Proposed Development [REP7-189] by the reference number provided in brackets '( )' next to each location, as set out below:

- Connah's Quay Road (TRS-42); and
- Northop Brook (TRS-43).

## **Above Ground Installations**

- 2.1.9. The ES Chapter 3 [REP7-036] sets out that AGIs provide a transition point along the underground Newbuild CO<sub>2</sub> Pipeline route where it



connects to the upstream emitters or another section of pipeline. They are specifically designed to operate and maintain the pipeline network and are located as shown on ES Figure 3.2 [REP7-189]. The general characteristics and purpose of the AGIs are as follows:

- Continual remote monitoring of the pipelines for operation and maintenance;
- Telemetry to allow remote operation of control valves; and
- Protection against loss of containment.

2.1.10. The AGI sites would comprise:

- an Electrical and Instrumentation (E&I) Kiosk (maximum 5m high) for distributing power and for control and monitoring of the system, together with associated infrastructure (auxiliary pipework and valves, instrumentation and sensors, cable trays, electrical transformers, and access arrangements), including power and fibre optic telecommunication connections to the existing utility network;
- a crushed aggregate ground finish, with an area paved to site the electrical transformer and E&I Kiosk, together with parking provision for up to two maintenance vehicles and new permanent access track (6m wide) with a crushed aggregate finish, connecting the AGI to the local road network.
- fencing, up to 3m high, topped by barbed-wire, together with a double access gate for maintenance vehicles; and
- lighting.

2.1.11. The Applicant advises the AGIs will not be permanently manned, as they will be operated remotely. As such the AGIs will include a number of security features including low lux or infrared/ thermal closed-circuit television cameras; intrusion detection systems; and access control systems.

## **Block Valve Stations**

2.1.12. The BVSs are facilities to host a block valve. Block valves are used to isolate sections of pipeline for maintenance purposes or in case of emergency. Early detection systems installed along the pipeline will identify if a potential fault has occurred and at what location, following which the appropriate block valves would then be remotely closed to isolate that section of pipeline. Each BVS would also have a local bypass to facilitate start-up and maintenance activities.

2.1.13. The general characteristics and purpose of the BVSs are as follows:

- System isolation for maintenance or in case of an emergency;
- Continual remote monitoring of the pipelines for operation and maintenance;
- Telemetry to allow remote operation of control valves; and
- Protection against loss of containment.

2.1.14. The BVSs are of a uniform size of approximately 45m x 40m and typically follow a similar internal arrangement. The BVS Indicative Arrangement Plans [REP7-009] provide an indicative layout for each BVS and the

location of the BVSs can be found in Figure 3.2 – DCO Proposed Development of the ES [REP7-189]. The block valves will be installed below ground level to an anticipated minimum depth of approximately 1m, with only limited above ground visible elements.

2.1.15. Each BVS will comprise:

- E&I Kiosk (maximum 5m high) for distributing power and for control and monitoring of the system.
- Associated infrastructure (auxiliary pipework and valves, instrumentation and sensors, cable trays, electrical transformer, and access arrangements).
- Secure chain-link fencing up to 3m high incorporating a double access gate for vehicles.
- Lighting, including perimeter lighting columns up to 5m in height, which the Applicant advises will be activated if required for maintenance or in the event of an emergency.
- Crushed aggregate ground finish, with an area paved to site the E&I Kiosk and parking provision for up to two large maintenance vehicles.
- A new permanent access track which would connect the BVS to the local road network, with each track being crushed aggregate finish and up to 3m wide.
- New power and fibre optic telecommunication connections to the existing utility network contained within/ alongside each of the access tracks.

2.1.16. The Applicant states all equipment will be elevated on concrete foundations/ plinths to mitigate flood risk, with no sensitive equipment located near ground level.

2.1.17. Similar to the AGIs, the Applicant states the BVSs would not be manned but would be monitored and controlled remotely. They would also include the same security features as the AGIs.

2.1.18. A total of six BVSs would be installed as part of the Proposed Development. Three BVSs will be located along the Stanlow AGI to Flint AGI Pipeline, whilst the remaining three will be located along the existing Flint Connection to PoA Terminal Pipeline. These three BVS (Cornist Lane BVS, Pentre Halkyn BVS and Babell BVS) will have new sections of tie-in pipelines installed to connect the new BVSs to the existing Flint Connection to PoA Terminal Pipeline. No BVSs are proposed along the Ince AGI to Stanlow AGI Pipeline or Flint AGI to Flint Connection Pipeline.

## **Other above ground infrastructure**

### **Cathodic Protection Transformer Rectifier Cabinets and Test Posts**

2.1.19. The Applicant states a Cathodic Protection (CP) system will be installed along the Newbuild CO<sub>2</sub> Pipeline to help protect against corrosion. It confirms that most elements of the CP system, including cabling and ground beds, will be buried below ground and will be installed during the construction of the Newbuild CO<sub>2</sub> Pipeline. However, above ground CP transformer rectifier cabinets (CP cabinets) will need to be installed along

the length of the route, with the CP cabinets being pre-made and measuring approximately 1m high by 0.5m long by 0.5m wide. It also states that no additional lighting will be required for the CP cabinets. Furthermore, it anticipates the CP cabinets would be installed on a concrete plinth.

2.1.20. The Applicant expects three CP cabinets installed along the Newbuild CO<sub>2</sub> Pipeline at Stanlow AGI, Flint AGI and north of the River Dee (Afon Dyfrdwy). It also advises that where the CP Cabinet is installed outside of an AGI or BVS, the preferred location will have taken into account:

- the distance from the pipeline;
- ground resistivity;
- ease of access for maintenance;
- proximity to other buried metallic services and infrastructure;
- proximity to power supplies;
- avoiding visibility from Public Right(s) of Way (PRoW);
- environmental sensitivities; and
- minimising interference with agricultural operations.

2.1.21. The Applicant also advises that the CP cabinet north of the River Dee (Afon Dyfrdwy) would be positioned along Deeside Lane and secured by a 1m high timber fence surrounded by hedgerow to prevent unauthorised access and avoiding visibility from the nearby PRoW. The Applicant considers that permanent access rights to this CP cabinet would be from Deeside Lane, and that no new permanent track would be required. In terms of the remaining two cabinets, the Applicant considers these are secure by virtue of their location within the AGI facilities.

2.1.22. Finally, the Applicant states the CP system includes small above ground CP test posts, which are to be installed along the Newbuild CO<sub>2</sub> Pipeline to allow maintenance inspectors to take readings of the CP system. It expects to install the CP test posts within AGIs and BVSs and near road, river and rail crossings, directly above the pipeline and positioned within verges to reduce disturbance to land uses. The Applicant confirms that the specific location of these small test posts will be confirmed at detailed design stage, once the precise alignment of the Newbuild CO<sub>2</sub> Pipeline is confirmed.

### **Marker Posts**

2.1.23. The installation of pipeline marker posts at all road, rail, river, canal crossings, changes in Newbuild CO<sub>2</sub> Pipeline direction, and field boundaries are included within the Proposed Development. These ground-level marker posts are similar in size and appearance to CP test posts referred to above.

2.1.24. The Applicant states that the exact number, location, and design of the marker posts will be confirmed at detailed design stage. However, it confirms industry standards will be followed and typically the marker posts will be precast reinforced concrete posts with information plaques on them. They will be located in a position that reduces disturbance to land uses (ie field boundaries or in verges).

- 2.1.25. The Newbuild CO<sub>2</sub> Pipeline route will also be marked with red and black colour-coded aerial marker posts at a typical frequency of about 1 kilometre and/ or at major changes of direction of the pipeline. The Applicant advises that these markers will be positioned at field boundaries, where possible and used for the inspection of the Newbuild CO<sub>2</sub> Pipeline by helicopter once constructed.

## **Other Infrastructure**

### **Fibre Optic Cable**

- 2.1.26. Fibre Optic Cable (FOC) connections are required to establish a telecommunication link between the PoA Terminal's safety and control systems and the new AGIs and BVSs. It will be installed along the length of the Ince AGI to Stanlow AGI Pipeline and Stanlow AGI to Flint AGI Pipeline at a depth no higher than the top of the pipeline. The Applicant advises that the FOC will be installed either within the pipeline trench or where this is not possible, for example at trenchless crossings, adjacent to the pipeline. The FOC will allow communication between the AGIs and BVSs along the Newbuild CO<sub>2</sub> Pipeline, with each AGI and BVS also separately connected to the telecommunications network.
- 2.1.27. In terms of BVSs at Cornist Lane, Pentre Halkyn and Babel BVS, as well as the Flint AGI, the Applicant advises two separate connections to the local telecommunications network will be installed, as there will not be a FOC installed along the Flint AGI to Flint Connection Pipeline and Flint Connection to PoA Terminal Pipeline.
- 2.1.28. In terms of the AGIs and BVSs separate FOC connections to the telecommunications network will be laid parallel to the new permanent access tracks, from the facility to where the access track will meet the adopted road network. The Applicant states that from this point, connection to the wider telecommunications infrastructure network will be made by the relevant statutory undertaker and this aspect of the works lies outside the DCO Application.

### **Electricity Connections**

- 2.1.29. The Applicant states each AGI, BVS and standalone CP cabinet will require a connection to the local electricity network at the nearest practicable connection point. This would be via the closest adopted highway and any connection works, up to that point, will be undertaken by the respective statutory undertaker(s). As such the Applicant considers this to lie outside the scope of the Proposed Development and states the electricity connections are not included in the DCO Application as a result.

### **Embedded Pipe Bridge**

- 2.1.30. The Proposed Development includes an option to install an embedded pipe bridge across the Alltami Brook, should the Applicant's preferred option of installing the pipeline beneath the watercourse via open-cut trench crossing not be found appropriate. Should the embedded pipe bridge option be required the Applicant states the bridge and its

foundations will be primarily constructed from concrete. The pipeline will be installed and completely buried within the structure and, dependent on the final design of the bridge and the height off the ground, the sides of the bridge would have steel handrails or fencing for fall protection and security. The bridge would be gated and fenced off at either end from the public to prevent trespass.

2.1.31. The Applicant indicates the span of the Alltami Brook embedded pipe bridge option to be approximately 15m and will be approximately 4m wide and 5m in height. A vertical clearance above the Brook of some 1.5m has been assumed within the preliminary design, with the final dimensions, including span and clearance to be determined at detailed design stage. The Applicant's document entitled 'Alltami Brook Crossing - Options Appraisal' [REP3-039] provides further details of this option. Additionally, in the event of this option going ahead, the Applicant advises the following matters will be considered in influencing the detailed design:

- detailed topographic surveys;
- ground investigations;
- flood modelling;
- ecology surveys; and
- minimising the loss of vegetation.

#### **TEMPORARY CONSTRUCTION COMPOUNDS**

2.1.32. Work Nos. 1A, 6A, 6B, 9A, 15A, 19A, 20A, 26A, 30A, 30D, 31A, 36A, 43A, 44A, 44C, 48A, 51A, 53A, and 55A would be used for temporary construction compounds during construction of the Proposed Development. Three types of Construction Compounds are proposed to serve the different types of construction works and these are:

- Centralised Compounds (Work Numbers 6B, 15A, 19A, 30A, 30D, 31A, and 44C).
- Trenchless Crossing Compounds (included as works within the relevant pipeline works descriptions in the DCO).
- Localised Compounds (Work Numbers 1A, 6A, 9A, 20A, 26A, 36A, 43A, 44A, 48A, 51A, 53A, and 55A).

2.1.33. All three types of temporary construction compound include temporary drainage solutions and will have the following general characteristics:

- temporary security fencing enclosure;
- all necessary signage advising of access restrictions and/or PRoW diversions relevant for each compound;
- a material laydown area, yard, mess room, toilets, first aid room, container storage and waste storage;
- self-contained mobile welfare facilities, generators for power, and mobile communications;
- parking;
- excavated material storage;
- construction lighting (not continuously illuminated, except in relation to trenchless crossings);

- access from the road network, via temporary access tracks.
- 2.1.34. The Centralised Compounds, which will occupy an area no larger than 90,000m<sup>2</sup>, will serve as points for accepting deliveries and storage of equipment, pipe and other material. Pipe sections and equipment will be transported from these Centralised Compounds directly to the storage areas within the various other compounds and work fronts by appropriate transport. They will also comprise:
- security cabin;
  - temporary facility for storage of specific materials;
  - temporary workshops for the prefabrication of piping, piping sandblasting and painting and piping insulation; and
  - concrete coverage used for entrance/ access tracks, warehouses, and bunded refuelling areas, amongst other uses. This will be broken up and disposed of at the end of construction activities as part of the reinstatement activities.
- 2.1.35. In terms of trenchless crossing compounds, each trenchless crossing will require two dedicated Construction Compounds to facilitate the works at either side of the feature that is being crossed. A larger compound will be required on the “entrance” site and a smaller compound will be on the “exit” side.
- 2.1.36. The Proposed Development has 43 trenchless crossings; however not all will have a trenchless crossing compound as some crossings are served by Localised Compounds.
- 2.1.37. The Trenchless Crossing Compounds will be up to 50m by 50m in size and will be in place for the duration of the works associated with the trenchless crossing, which is expected to be no longer than 3 months per crossing. The trenchless crossing compound will be dismantled following cessation of works and the land will be reinstated back to its former use.
- 2.1.38. All of the trenchless crossing compounds will have the following common features:
- provision for equipment yard, supervisor’s office and laydown area;
  - provision for a crane movement area and staging laydown;
  - specialised trenchless crossing equipment; and
  - horizontal directional drilling crossings will include provision for drilling rig and associated ancillaries (control cabinet, power packs, water and bentonite tanks, pumps).
- 2.1.39. In terms of Localised Compounds these are required to serve the construction works at AGI and BVS locations. There are also a number of open-cut trench crossings that will require a Localised Compound to facilitate the more complex construction works.
- 2.1.40. The Localised Compounds will be up to approximately 35m by 35m in size and at the BVSs/ AGIs are expected to be in place for the duration of the construction programme. At the open cut trench locations, the localised compounds are expected to be in place for the duration for the

works associated with that crossing according to the construction programme, which is expected to be no longer than 3 months.

2.1.41. The Localised Compounds will have the following additional characteristics:

- Provision for equipment yard, supervisor’s office and laydown area; and
- Provision included for a crane movement area and staging laydown.

## **2.2. THE APPLICATION AS EXAMINED**

2.2.1. Changes were made to some of the application documents during the Examination, including the wording of the draft DCO (dDCO). These changes sought to address the ExA’s written questions, as well as points raised by Interested Parties (IPs). They aim to improve the clarity of the drafting of the DCO and address any omissions, discrepancies and other matters which were raised during the Examination.

2.2.2. The Applicant’s changes to the application documents, together with any additional information submitted, are detailed in the Application Guide submitted at Deadline (DL) 9 [REP9-002]. This provides a guide to all documents submitted as part of the application and was updated at each DL when new or revised documents were submitted. It provides a full record of all documentation submitted into the Examination.

### **Change Requests**

2.2.3. The Applicant made three Change Requests (CR) during the Examination, as follows:

- CR1 was submitted on 27 March 2023 and included the following documents [CR1-001] to [CR1-126].
- CR2 was submitted on 2 June 2023 and included the following documents [CR2-001] to [CR2-022].
- CR3 was submitted on 12 July 2023 and included the following documents [CR3-001] to [CR3-019].

2.2.4. CR1 listed the proposed changes as follows:

Change No. 1	Relocation of Work No. 51, Cornist Lane BVS, to the south-east by 120m.
Change No. 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.
Change No. 3	Relocation of Work No. 45, Northop Hall AGI to the west by 75m.

Change No. 4	Extension of the Order Limits of Work No. 23 and addition of Plot no 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.
Change No. 5	Extension in construction working hours to include Saturday morning working.
Change No. 6	Extension of the Order Limits at Work No. 3 to enable access to Ince AGI from the adopted highway.
Change No. 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.
Change No. 8	Reduction of the Order Limits at Work No. 3 to remove a section of the Hapsford railway line spur.
Change No. 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).
Change No. 10	Reduction of the Order Limits to remove part of the east bank of the River Gowy at Work No. 13A.
Change No. 11	Extension of the Order Limits to include a new private access track at Work No. 32A and a reduction of the Order Limits to remove an access track from the B5129 at Work No. 33.
Change No. 12	Clarification of construction methodology to allow non-road mobile machinery to cross features at the surface of trenchless crossings.
Change No. 13	Reduction of the Order Limits at Work No. 31 to remove part of a PRoW along the south bank of the River Dee (Afon Dyfrdwy).
Change No. 14	Reduction of the Order Limits at Work No. 18 to remove a section of the Shropshire Union Canal.



Change No. 15	Amendment to the access for the Shotton Lane Construction compound at Work No. 41A near Ewloe to reduce impact on a Badger Sett.
Change No. 16	Additional PRow diversion near Stanlow at Work No. 11.
Change No. 17	Extension of Order Limits to include existing access from Bridleway (Picton PR4) at Work No. 16a.
Change No. 18	Land Plans Amendments following changes to the Proposed Development Submission.

- 2.2.5. On the 24 April 2023, the ExA made a procedural decision to accept CR1 noting none of the proposed changes were so material that they would constitute a materially different project. The proposed changes were 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.
- 2.2.6. However, given the amendment of the Order Limits required an extension to the Order land within the scope of Compulsory Acquisition (CA) and new ownership, lessee, interests in land, etc., would be affected, the Changes were considered to go beyond what could be considered non-material in the facts and circumstances of this application. Irrespective of this the ExA were satisfied that the relevant documents submitted with the CR complied with the requirements of Regulations 5 and 6 of The Infrastructure Planning (CA) Regulations 2010 (the CA Regulations).
- 2.2.7. Furthermore, the ExA was satisfied that sufficient time remained 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 Hearings, along with still being able to comply with the procedural requirements of the CA Regulations.
- 2.2.8. The Applicant undertook the necessary consultation in light of the acceptance of the CR1 between 11 May 2023 and 14 June 2023 and provided the Planning Inspectorate with certification of compliance with regulations 7 and 8 of the CA Regulations, including the notification of additional affected persons, in accordance with Regulation 9 of the CA Regulations [OD-004] and [OD-005]. The Applicant submitted its updated consultation report, pursuant to the CR1 revision, at DL5 [REP5-024].
- 2.2.9. Pursuant to the CR1 consultation undertaken by the Applicant, twelve Relevant Representations (RRs) were received by the Planning Inspectorate [CR1RR-001] to [CR1RR-012]. All makers of the CR1 RRs

were provided with an opportunity to become involved in the Examination as IPs. All CR1 RRs have been fully considered by the ExA and any relevant issues raised in them are considered in Chapters 4, 5, 6 and 8 of this Report.

2.2.10. CR2 listed the proposed changes as follows:

Change No. 1	The introduction of optionality for the Alltami Brook crossing at Work No. 43, consisting of an alternative option for an embedded pipe bridge. This will act as an alternative to the Applicant’s preferred trenched crossing of Alltami Brook. This change also altered the CA sought from sub-surface interests only to full CA to allow for the above ground bridge.
Change No. 2	The addition and removal of small parcels of land to the Order Limits at Work No. 34 to optimise temporary construction access near Chester Road East so as to minimise impacts on the 2 Sisters Food Group, as well as a change to the CA sought.

2.2.11. On the 2 June 2023, the ExA made a procedural decision to accept CR2 [PD-019] noting none of the proposed changes were so material that they would constitute a materially different project. The proposed changes were 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 CR2 Change 2 included extending the Order Limits; whilst CR2 Change 1 altered the type of CA sought (sub-surface interests only to full acquisition of land) to allow for the above ground bridge, both had the potential to increase interference with landowners’ rights and were considered to trigger Regulations 5 to 19 of the CA Regulations.

2.2.12. Irrespective of this the ExA was satisfied that the relevant documents submitted with this CR complied with the requirements of Regulations 5 and 6 of the CA Regulations and there was sufficient time within the Examination for the proposed changes to be properly and fairly consulted upon and examined. This included allowing for the opportunity to make written submissions, as well as the making of oral representations at any hearings required. It also allowed sufficient time to enable compliance with the procedural requirements of the CA Regulations.

2.2.13. The Applicant undertook the necessary consultation in the light of the acceptance of the CR2 between 8 June 2023 and 17 July 2023 and provided the Planning Inspectorate with certification of compliance with Regulations 7 and 8 of the CA Regulations, including the notification of additional affected persons, in accordance with Regulation 9 of the CA Regulation [OD-006] and [OD-007]. The Applicant submitted an updated consultation report [CR2-022], with its CR2 submissions.

2.2.14. Pursuant to CR2 two RRs were received by the Planning Inspectorate [CR2RR-001] and [CR2RR-002]. The makers of these RRs were provided with an opportunity to become involved in the Examination as IPs. All CR2 RRs have been fully considered by the ExA. Any material issues they raised are considered in Chapters 4, 5, 6 and 8 of this Report.

2.2.15. CR3 listed the proposed changes as follows:

<p>Change No. 1</p>	<p>Removal of Shotton Lane Centralised Compound and reduction to Newbuild Infrastructure Boundary comprising:</p> <ul style="list-style-type: none"> <li>▪ removal of the Temporary Logistics and Construction Compound (Work No. 41A);</li> <li>▪ removal of the Temporary Working Area (Work No. 41D); and</li> <li>▪ the extension of the Temporary Access (Work No. 41B) to meet the CO<sub>2</sub> Pipeline Works (Work No. 41), to take account of the removal of the above works.</li> </ul> <p>Of note was the effect of this change resulted in the removal of land from the Order Limits (specifically land parcels 18-08, 18-09, 18-12 and the partial removal of parcel 18-13).</p>
<p>Change No. 2</p>	<p>Change to Outline Surface Water Drainage Design and reduction to Newbuild Infrastructure Boundary at Ince AGI comprising:</p> <ul style="list-style-type: none"> <li>▪ the removal of Plot 1-07 and updates to the Outline Surface Water Drainage Strategy, to avoid the outfall for the Ince AGI drainage pond connecting into the East Central Drain.</li> </ul>
<p>Change No. 3</p>	<p>Reduction in the Newbuild Infrastructure Boundary at Picton Lane comprising:</p> <ul style="list-style-type: none"> <li>▪ the removal of land from the Order Limits at Picton Lane to minimise land take required for construction and operational access at Work No. 16A and Work No. 16B, and to bring the Order Limits in line with the land plot changes, submitted at DL4.</li> </ul>
<p>Change No. 4</p>	<p>Change to application of compulsory powers for Encirc land access comprising:</p>

	<ul style="list-style-type: none"> <li>▪ the downgrading of part of Plot 1-06 from permanent acquisition of rights to temporary possession of land. To enable this a new Plot 1-06d was created within the existing Order Limits, with associated Works Plans being updated by partially splitting Work No. 3, creating a new Work No. 3A (downgraded from Permanent Access to Temporary Access) and Work No. 3B (remaining as a Permanent Access), warranting its own Work Number as it would be functionally independent.</li> </ul>
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- 2.2.16. When considering all of the above-mentioned CR3 changes, the ExA noted none of the changes created or resulted in 'Additional Land' within the meaning of the CA Regulations and no new land was being impacted. As a result, the extent of the Order Limits reduced. In the light of these facts, the ExA concluded that the proposed changes in CR3 did not constitute a material change to the Proposed Development, as they related solely to reductions to the Order Limits and no additional CA of land was being sought. They did not amount to a different project being proposed.
- 2.2.17. For the reasons set out in the ExA's procedural decision of the 12 July 2023 [PD-025] the ExA accepted the CR3 proposed changes listed above, into the Examination.
- 2.2.18. A consolidated ES was submitted at DL4, which incorporated the changes that had been accepted by the ExA as part of CR1 and CR2. It set out the Applicant's findings of the full Environmental Impact Assessment that was carried out for the Proposed Development, including those related to CR1 and CR2. Additionally, as part of the Applicant's CR3 submissions it included a document entitled 'Technical note – D.7.47' [CR3-019], with the subject heading 'CR3 Environmental Technical Note'. The Applicant advised this was produced to evidence that the environmental impacts to the Proposed Development as part of CR3 were appropriately assessed, with any likely significant environmental effects identified, and to satisfy the requirements of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended).
- 2.2.19. At DL7 the Applicant submitted final versions of all ES documentation, incorporating all changes made during the Examination to date. Two of these documents were further updated at DL8, due to minor discrepancies in those documents. A full list of the Planning Inspectorates Examination Library references for all the Applicant's final version of the ES are listed in paragraph 1.5.6 above.
- 2.2.20. In regard to all of the CR (CR1, CR2 and CR3) the ExA remained aware throughout the Examination of the need to consider whether changes to the application documents have changed the application to a point where it became a different application and whether the Secretary of State would have power therefore under section 114 of the PA2008 to make a DCO having regard to the development consent applied for.

- 2.2.21. The 'Planning Act 2008: Guidance for the Examination of applications for development consent' (March 2015), provides guidance at paragraphs 109 to 115 in relation to changing an application post-Acceptance. The view expressed by the Government during the passage of the Localism Act was that section 114(1) places the responsibility for making a DCO on the decision-maker and does not limit the terms in which it can be made.
- 2.2.22. It is clear from consideration of this context throughout the Examination that the changes to the application, which consist of the above-mentioned CR and document updating, have not resulted in significant changes to the nature of the Proposed Development from that which was applied for. The changes taken into account in reaching this conclusion are documented in the chapters below of this report. It follows that the Secretary of State has the power to make the DCO as discussed in Chapter 9 and provided in Appendix D to this report.
- 2.2.23. A full description of the Proposed Development, as it stood at the close of the Examination, is detailed in Chapter 3 of the ES [REP7-036], which was submitted in its final version at DL7.

## **2.3. THE SITE AND SUROUNDINGS**

- 2.3.1. The geographical sections of the Newbuild CO<sub>2</sub> Pipeline route are described at paragraph 2.1.7 above. However, due to the linear nature of the Proposed Development and its length, there is no consistent characteristic of the route of the Proposed Development. As such, it is not practical to attempt to describe the site and surroundings of the Proposed Pipeline. Irrespective of this, many of the issues concerning the surroundings of the Proposed Development are discussed in Chapter 5.
- 2.3.2. The Proposed Development extends through the administrative areas of two local authorities; FCC and CWCC. Much of the proposed route passes through scenic, farmed landscape of arable fields and pasture with occasional villages, scattered residential properties and small areas of woodland. However, other parts of the route are more urban, with some residential in character, with others more industrial in their nature.
- 2.3.3. The route of the Proposed Development passes through or is located close to a number of designations, including:
- Site(s) of Special Scientific Interest;
  - Special Protection Area(s);
  - Special Area(s) of Conservation;
  - a Ramsar Site;
  - Green Belt/ Green Wedge;
  - Conservation Areas;
  - Scheduled Monuments; and
  - Historic Landfill Sites.
- 2.3.4. It also runs through an area designated as open space (See Plot Number 17-02 in the Book of Reference [REP7-025] and/ or the Land Plans [CR3-003] and/ or the Special Category Land Plans [REP7-008]).

- 2.3.5. The Proposed Development would also need to pass under and/ or close to railway lines, the Shropshire Union Canal, the M53 and M56 motorways and 'A' roads.

## **2.4. RELEVANT PLANNING HISTORY**

- 2.4.1. The Applicant's Planning Statement [REP4-022] briefly outlines the planning history associated with the route of the Proposed Development, as well as other land, in its vicinity. Broadly, the DCO Order Limits are greenfield and the site and surrounding areas do not have an extensive planning history, as a result. However, there are exceptions to this at locations where the Order Limits run in proximity to urban centres in FCC and industrial centres in CWCC.
- 2.4.2. The Local Impact Reports (LIR) from FCC [REP1A-005] and CWCC [REP1A-002], together with their respective appendices (FCC [REP6A-006] and CWCC [REP6A-003]) identified planning history not identified within the Applicant's Planning Statement, as originally submitted [APP-048]. However, the Applicant rectified this in subsequent versions of its Planning Statement (Current version [REP4-022]) at Appendix A, including all planning history that qualified for inclusion in the long-list of the Inter-Project Effects Assessment (Table 2 of Appendix 19.1 of the ES [REP7-185]).
- 2.4.3. FCC in its 'Response to the Applicant's comments to the FCC's Final LIR [REP3-046], confirmed the Applicant's response to its comments planning history was noted, whilst CWCC did not comment further on this matter in its document entitled 'Response to the Applicant's comments to the CWCC's LIR' [REP3-044]. Furthermore, this matter was not included as an area of agreement or disagreement in the Statement of Common Ground with either FCC [REP7-259] or CWCC [REP8-021].
- 2.4.4. The planning history associated with the Order Limits of the Proposed Development, as well as other land that is located mainly in the vicinity of the application site, is detailed in Appendix A of the Applicant's Planning Statement [REP4-022].
- 2.4.5. No other issues, that were not addressed by the Applicant during the Examination, arose out of its account of the site's planning history for the Proposed Development site and surrounding area with the exception of a submission made at DL1, by Rostons (representing an IP) [REP1-079], which referenced a "*proposed solar farm development*". This reference, in part, informed the ExA's second written questions [PD-022] seeking, amongst other matters, further information in relation to the "*proposed solar farm development*".
- 2.4.6. In its response to this request, Rostons made a submission at DL5 [REP5-045] that indicated "...a full planning application has not been submitted..." for the solar development as of the date of the response (email dated 28 June 2023), but a pre-planning application submission (23/01234) and Environmental Impact Assessment Screening submission

22/04248/SCR had been submitted to CWCC. Rostons confirmed both matters were ongoing.

- 2.4.7. The Applicant in its response to ExQ2 [REP5-026] confirmed it was not aware of a formal planning application being submitted to CWCC; whilst CWCC in its response to ExQ2 [REP5-030] replied in a similar vein to the Rostons response set out above, but also indicated it would keep the ExA updated in regard to any submissions made in relation to this solar farm development.
- 2.4.8. At DL7 CWCC made a number of submissions, including [REP7-302], [REP7-303], [REP7-304], [REP7-307] and [REP7-308] in relation to the above mentioned pre-planning application submission (23/01234) and the Environmental Impact Assessment Screening submission 22/04248/SCR. These submissions included a copy of CWCC's Screening Opinion issued regarding screening application reference no. 22/04248/SCR, as well as a copy of its letter providing pre-application advice related to planning reference 23/01234/PREAPP, with the latter advice not, in the ExA's opinion, appearing to be overly positive or encouraging.
- 2.4.9. By the close of the Examination, no further updates in relation the submission of any formal planning application(s) being submitted for the solar farm development, referred to above, had been provided by any IP's or Applicant.

## 3. LEGAL AND POLICY CONTEXT

### 3.1. INTRODUCTION

3.1.1. This chapter sets out the relevant legal and policy context for the application. The Examining Authority (ExA) has taken this into account in the Examination of the Proposed Development and in presenting findings and making recommendations to the Secretary of State (SoS).

3.1.2. The legislative and consenting framework, as understood by the Applicant, is described in its Planning Statement [REP4-022] at section 3. This includes matters of importance and relevance under Section (s) 105 of the Planning Act 2008 (PA2008), an assessment of the policy context for adopted and emerging National Policy Statements (NPS) for Energy, an assessment of United Kingdom (UK) and Welsh Energy Policy and consideration of other matters of importance and relevance.

3.1.3. Other Sections within the Applicant's Planning Statement [REP4-022] comprise:

- the Applicant's assessment of the Proposed Development against NPS EN-1 (Overarching NPS for Energy) and NPS EN-4 (NPS for Gas Supply Infrastructure and Gas and Oil Pipelines) (Section 4);
- an assessment of Green Belt, Green Wedge and Open Space (Section 5);
- the Applicant's assessment of the benefits and disbenefits of the Proposed Development (Section 6); and
- Policy compliance assessments (Appendix B) related to
  - NPS EN-4;
  - The National Planning Policy Framework (July 2021) (NPPF), with the Applicant noting its replacement on 5 September 2023, which updated policy for onshore wind development in England, in its Deadline (DL) 8 covering letter [REP8-001] stating "*...the policy changes within the newly adopted NPPF (September 2023) are not relevant to this Application...*" and confirming its position that "*...the policy considerations within Table B2 of Appendix 2 of the Planning Statement [REP4- 022] remain relevant*";
  - Planning Policy for Wales (February 2021);
  - Local Planning Policy for Cheshire West and Chester Borough Council (CWCC), including 'The CWCC Local Plan (Part One) Strategic Policies' (adopted on 29 January 2015) and 'The CWCC Local Plan (Part Two) Land Allocations and Detailed Policies' (adopted on 18 July 2019);
  - Local Planning Policy for Flintshire County Council (FCC), including the Flintshire Local Development Plan 2015 – 2030 (adopted 24 January 2023); and
  - the emerging Ince Neighbourhood Plan.

3.1.4. In addition to the above, individual chapters of the Applicant's Environmental Statement provides specific, topic-based legal and policy background relating to particular topics.



- 3.1.5. The Local Impact Reports (LIR) of FCC [REP1A-005] and CWCC [REP1A-002], together with their respective appendices (FCC [REP6A-006] and CWCC [REP6A-003]) sets out the position of these local authorities regarding their respective development plan policies.

## **3.2. THE PLANNING ACT 2008**

- 3.2.1. The application is for a Development Consent Order (DCO) under the PA2008 for the construction of a cross-country pipeline, with one end in Wales and the other end in England, other than by a gas transporter. The components of the Proposed Development are set out in Chapter 1 and Appendix A of this report.
- 3.2.2. The Pipelines Act 1962 would be the consenting regime but for s33(1) of the PA2008. As a result, the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) as it falls within s.21 of the PA2008, and so requires development consent in accordance with s.31 of that Act. The Proposed Development therefore meets the definition of an NSIP set out in s14(1)(g) of the PA2008.
- 3.2.3. Section 105 of the PA2008 applies, as no NPS has effect in relation to development of the description to which the application relates. However, s.105(2) of the PA2008 sets out the matters to which the SoS must have regard in deciding an application submitted in accordance with the PA2008. In summary, the matters set out in s.105(2) to which the SoS must have regard are any LIRs, any matters prescribed in relation to the development, and any other matters the SoS thinks are both important and relevant to the decision.
- 3.2.4. This report sets out the ExA's findings, conclusions and recommendations taking these matters fully into account and applying the criteria set out in s.105 of the PA2008, whilst the remainder of this chapter addresses the LIRs submitted by FCC and CWCC; any matters prescribed in relation to the development, where relevant; and any other matters capable of being both important and relevant to the SoS's decision in regard to the Proposed Development, which includes the adopted and emerging NPSs for Energy.

## **3.3. NATIONAL POLICY STATEMENTS**

- 3.3.1. The Overarching NPS for Energy<sup>2</sup> (NPS EN-1) published in July 2011 sets out the Government's policy for delivery of major energy infrastructure. It was accompanied by five technology-specific NPSs for the energy

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<sup>2</sup> Overarching National Policy Statement for Energy (EN-1) (Department of Energy & Climate Change 2011). Retrieved from: <https://www.gov.uk/government/publications/national-policy-statements-for-energy-infrastructure>.

sector of which only the NPS for Gas Supply Infrastructure and Gas and Oil Pipelines<sup>3</sup> (NPS EN-4) is considered relevant.

## **NPS EN-1: OVERARCHING NATIONAL POLICY STATEMENT FOR ENERGY**

- 3.3.2. Part 2 of NPS EN-1, July 2011, sets out "*Government policy on energy and energy infrastructure development*". It confirms:
- the Government's commitment to meet its legally binding target to cut greenhouse gas (GHG) emissions by at least 80% by 2050 compared to 1990 levels (which has since been increased to a commitment to reach net zero emissions by 2050<sup>4</sup>);
  - the need to affect a transition to a low carbon economy, so as to reduce GHG emissions; and
  - the importance of maintaining secure and reliable energy supplies as older fossil fuel generating plant close due to the European Union (EU) Emissions Trading System and the UK moves towards a low carbon economy.
- 3.3.3. Whilst NPS EN-1 does not specifically reference or provide guidance for Carbon Capture and Storage (CCS) for industrial de-carbonisation solutions within the UK, the ExA considers it to be important and relevant to this NSIP as a useful policy reference document that includes overarching principles that support decarbonisation and diversity of energy supply.
- 3.3.4. This NPS (NPS EN-1) also elaborates that the "*Government would like industry to bring forward many new low carbon developments (renewables, nuclear and fossil fuel generation with CCS) within the next 10 to 15 years to meet the twin challenge of energy security and climate change*" by 2050 (paragraph 3.3.5).
- 3.3.5. Part 2 of NPS EN-1 notes "*...the importance of maintaining secure and reliable energy supplies*" as well as the energy being vital to economic growth, social well-being and achieving 2050 targets. NPS EN-1 at paragraphs 2.2.5 refers to "*The transition to a low carbon economy*", whilst paragraph 2.2.6 states: "*The UK needs to wean itself off such a high carbon energy mix: to reduce greenhouse gas emissions, and to improve the security, availability and affordability of energy through diversification.*"
- 3.3.6. Furthermore, NPS EN-1 establishes the critical need for the UK to continue to have secure and reliable supplies of electricity as it makes the transition to a low carbon economy, whilst Part 3 of NPS EN-1

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<sup>3</sup> National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4) (Department of Energy & Climate Change 2011). Retrieved from: <https://www.gov.uk/government/publications/national-policy-statements-for-energy-infrastructure>.

<sup>4</sup> UK becomes first major economy to pass net zero emissions law (27 June 2019). Retrieved from: <https://www.gov.uk/government/news/uk-becomes-first-major-economy-to-pass-net-zero-emissions-law>.

emphasises the need for energy infrastructure at the national level. Indeed, paragraph 3.2.2 states *"we need to become less dependent on some forms of energy, as new and innovative low carbon technologies and energy efficiency measures are taken up"*.

- 3.3.7. Paragraph 3.3.5 of NPS EN-1 identifies that the UK is choosing to largely decarbonise its power sector by adopting low carbon sources quickly and notes there to be likely advantages to the UK by maintaining a diverse range of energy sources, so that we are not overly reliant on any one technology. Indeed NPS EN-1 notes the urgency of the need for new electricity capacity, whilst meeting our obligations for 2050, particularly for low carbon energy (paragraph 3.3.15). It also notes, at paragraph 3.3.16, that a failure to decarbonise and diversify energy sources could result in becoming locked into a system of high carbon generation, making it very difficult and expensive to meet the 2050 carbon reduction target.
- 3.3.8. Section 3.6 of NPS EN-1 acknowledges that fossil fuel generation plays a vital role in providing reliable energy supplies and providing flexibility in response to changes in supply and demand and diversity in energy mix. Government policy is that fossil fuel-based generating stations must be constructed and operate in line with increasingly demanding climate change goals. Indeed paragraphs 3.6.4 - 3.6.7 of NPS EN-1 relate to CCS and the role CCS can have in meeting emissions targets, while also maintaining security of supply. These paragraphs also recognise CCS has the potential to reduce carbon emissions by up to 90%. However, NPS EN-1 also acknowledges that there is *"uncertainty about the future deployment of CCS in the economy..."*, but that this *"...cannot be resolved without first demonstrating CCS at commercial scale."* (paragraph 3.6.4).
- 3.3.9. Paragraph 4.1.2 of NPS EN-1 indicates that the SoS should start with a presumption in favour of granting consent to applications for energy NSIPs, whilst paragraph 4.1.3 of NPS EN-1 advises account should be taken of the potential benefits of the Proposed Development to meeting the need for energy infrastructure, job creation and any longer term or wider benefits. Additionally, it sets out account should also be taken of potential adverse impacts, including any long term and cumulative ones, as well as measures to avoid, reduce or compensate for them. Paragraph 4.1.4 continues by stating that within this context the SoS should take into account environmental, social and economic benefits and adverse impacts, at national, regional and local levels.
- 3.3.10. Additionally, other policies and considerations, including those contained in the development plan for the area may constitute matters that the SoS may regard as important and relevant to the decision. However, it is considered the primacy of NPSs for NSIPs is clear and the ExA considers them to be important and relevant and should be taken into consideration in the determination of this Proposed Development. In the event of a conflict between policies contained in any other document and those in an NPS, those in the NPS could prevail for the purposes of decision-making on NSIPs, should they outweigh the other documents

and it be considered they were important and relevant in accordance with s105 of the PA2008.

- 3.3.11. Part 5 of NPS EN-1 lists a number of generic impacts that relate to most types of energy infrastructure, which the SoS should take into account when preparing and considering applications. These include land use; socio-economics; air quality and emissions; noise and vibration; dust, odour, artificial light, steam and smoke; traffic and transport; civil and military aviation; biodiversity and geological conservation; historic environment; landscape and visual; water quality and resources; flood risk and waste, amongst others.

### **NPS EN-4: NATIONAL POLICY STATEMENT FOR GAS SUPPLY INFRASTRUCTURE AND GAS AND OIL PIPELINES**

- 3.3.12. NPS EN-4 (July 2011) at paragraph 1.8.1 (iv) is clear that *"The infrastructure covered by this NPS is the nationally significant infrastructure caught by the relevant Planning Act thresholds (sections 17–21 of the Planning Act 2008), as follows.."*

*(iv) Pipelines over 16.093km (10 miles) long which would otherwise require consent under s.1 of the Pipe-lines Act 1962 together with diversions to such pipelines regardless of length. These pipelines are referred to in this NPS as cross-country pipelines."*

- 3.3.13. Irrespective of this paragraph 1.8.2 notes *"Pipelines which meet the Planning Act threshold at 1.8.1 (iv) could be carrying different types of gas, fuel or chemicals..."* but is clear that NPS EN-4 *"...only covers those nationally significant infrastructure pipelines which transport natural gas or oil."* However, this paragraph also states *"...information in this NPS may be useful in identifying impacts to be considered in applications for pipelines intended to transport other substances."*

- 3.3.14. In the light of this, the ExA considers NPS EN-4 to be important and relevant to the SoS's consideration of this Proposed Development in that it provides guidance technology specific considerations for pipelines, albeit gas and/ or oil, which include proximity to sensitive land uses (eg, residential development and schools) when planning routes; pipeline safety; noise and vibration; biodiversity; landscape and visual amenity; water quality and resources; and soils and geology.

### **EMERGING NATIONAL POLICY STATEMENTS FOR ENERGY – POLICY CONTEXT**

- 3.3.15. On 6 September 2021 the Department for Business, Energy and Industrial Strategy (BEIS) published revised draft NPSs (dNPS) in relation to energy (dNPS EN-1 to dNPS EN-5 (inclusive)) for consultation. These dNPSs reiterated the urgent need for low carbon energy development and carbon capture, as well as emphasising the importance of good design.

- 3.3.16. Updated versions of the dNPSs were re-published by the Department for Energy Security and Net Zero (DESNZ), with a fresh consultation period commencing on 30 March 2023. The consultation closed on 23 June 2023. All subsequent references in this report to dNPSs, including dNPS EN-1 and dNPS EN-4 are to the March 2023 versions of those dNPS, unless otherwise stated.
- 3.3.17. The existing NPSs (July 2011) do not directly address proposals of the nature of the Proposed Development. However, the current dNPS EN-1 and dNPS EN-4 are considered to be important and relevant considerations in the decision-making process relevant to this Proposed Development.
- 3.3.18. The ExA has considered the relevant dNPSs in place at the close of the Examination, it is aware that the SoS released revised dNPS's on 22 November 2023, including dNPS EN-1 (November 2023) and dNPS EN-4 (November 2023). Whilst the ExA has not considered these revised dNPSs (November 2023) in this Report, as they were published following the closure of the Examination, it is clear that they are potentially important and relevant in the determination of this NSIP submission. Therefore, the SoS for DESNZ may wish to consider them in the determination of this Proposed Development, especially should they be designated prior to a determination on the Proposed Development being reached.
- 3.3.19. The following dNPSs are of relevance to the Proposed Development:
- dNPS Overarching NPS for Energy (dNPS EN-1).
  - dNPS for Natural Gas Supply Infrastructure and Gas and Oil Pipelines (dNPS EN-4).
- 3.3.20. The dNPS EN-1 sets out the "*urgent need*" for new CCS infrastructure, as well as setting out the key role the sector can play in helping the UK meet its net zero commitment. Paragraph 2.3.11 notes "*Clear action will need to be taken to build on the proven capabilities within the sector to lead in new and emerging energy technologies.*" This would include NSIP applications such as the Proposed Development and the role CO<sub>2</sub> pipelines and expanding CCS networks can play in assisting the UK in meeting its net zero commitment.
- 3.3.21. dNPS EN-1 in Part 2 outlines the policy context for the development of nationally significant energy infrastructure, with paragraphs 2.1.1 and 2.1.2 setting out the Government's commitment to delivering decarbonisation targets. Should it be designated in its current form, dNPS EN-1 commits to putting the UK on the path to meeting its net zero emissions target by 2050. The Government's legally binding target of achieving net zero in terms of greenhouse gas emissions by 2050 is set out in section 2.2 and further expands on specific targets to meet Net Zero targets in section 2.3 stating:

*"Meeting these objectives necessitates a significant amount of energy infrastructure, both large and small-scale... It... includes the infrastructure needed to capture, transport and store carbon dioxide. The requirement*

*for new energy infrastructure will present opportunities for the UK and contributes towards our ambition to support jobs in the UK's clean energy industry and local supply chains."* (paragraph 2.3.4).

- 3.3.22. Furthermore, dNPS EN-1 recognises the *"increasingly significant role"* which low carbon hydrogen can play in the decarbonisation of energy across several sectors, stating *"We will need to adapt existing networks or build new ones to ...enable the transport and storage of carbon dioxide."* (paragraph 2.3.8).
- 3.3.23. Part 3 of dNPS EN-1 establishes the urgent need for new nationally significant energy infrastructure projects, whilst paragraph 3.2.6 identifies that the SoS should give substantial weight to considerations of need. Paragraph 3.2.7 also makes it clear that *"...the SoS is not required to consider separately the specific contribution of any individual project to satisfying the need established in this NPS."*
- 3.3.24. Section 3.2 of dNPS EN-1 confirms that the SoS should assess all applications for development consent covered by the energy NPSs on the basis that the government has demonstrated that there is a need for those types of infrastructure. It also sets out at paragraph 3.2.5 that the SoS should assess all applications for development consent for the types of infrastructure covered by dNPS EN-1 on the basis that the government has demonstrated that there is an urgent need for those types of infrastructure.
- 3.3.25. Section 3.5 of dNPS EN-1 establishes the need for new nationally significant carbon capture and storage infrastructure, stating *"There is an urgent need for new CCS infrastructure to support the transition to a net zero economy."* (paragraph 3.5.1).
- 3.3.26. The dNPS EN-1 recognised *"CCS infrastructure could be new or repurposed infrastructure"* whilst also stating *"CCS infrastructure will also be needed to capture and store carbon dioxide from hydrogen production from natural gas, industrial processes, the use of bioenergy (BECCS) and from the air (DACCS)"* (paragraph 3.5.2.). Furthermore, paragraph 3.5.6 recognises new onshore CO<sub>2</sub> pipelines over 16.093 kilometres in length are within scope of the dNPS EN-1, whilst paragraph 3.5.5 recognises *"The UK has one of the largest potential CO<sub>2</sub> storage capacities in Europe, with an estimated 78 billion tonnes of CO<sub>2</sub> storage capacity under the seabed of the UKCS"* (UK Continental Shelf).
- 3.3.27. Paragraph 3.5.8 of dNPS EN-1 acknowledges there does not appear to be any realistic alternatives to new CCS infrastructure for delivering Net Zero by 2050.
- 3.3.28. Paragraph 4.8.22 of the dNPS EN-1 recognises pipelines as a method to transport captured CO<sub>2</sub> stating *"...considerable investment in pipelines will be required for the wider deployment of CCS"*. Whilst paragraph 4.8.23 states *"Applicants are expected to take into account foreseeable future demand when considering the size and route of their investments. Applicants may therefore propose pipelines with a greater capacity than demand at the time of consenting might suggest."*

- 3.3.29. In terms of dNPS EN-4 it remains clear it covers *"Pipelines over 16.093km (10 miles) long which would otherwise require authorisation under s.1 of the Pipe-lines Act 1962 together with diversions to such pipelines regardless of length.* (paragraph 1.6.1 (iv)).
- 3.3.30. Irrespective of this paragraph 1.6.2 notes *"Pipelines which meet the Planning Act threshold at 1.6.1 (iv) could be carrying different types of gas, fuel or chemicals..."* but is clear that dNPS EN-4 *"...only covers those nationally significant infrastructure pipelines which transport natural gas or oil."* However, this paragraph also states *"...information in this NPS may be useful in identifying impacts to be considered in applications for pipelines intended to transport other substances."*
- 3.3.31. dNPS EN-4 provides guidance regarding technology specific considerations for pipelines, albeit gas and/ or oil, which include proximity to sensitive land uses (eg, residential development and schools) when planning routes; pipeline safety; noise and vibration; biodiversity; landscape and visual amenity; water quality and resources; and soils and geology.

### **3.4. MARINE AND COASTAL ACCESS ACT 2009**

- 3.4.1. It is necessary for the Applicant to apply to Natural Resources Wales (NRW) Marine Licencing Team, on behalf of the Welsh Government, under the Marine and Coastal Access Act 2009 for a Marine Licence for the River Dee (Afon Dyfrdwy) Crossing, as it would result in licensable activities within Welsh waters. The Applicant confirmed in its covering letter submitted at DL7 [REP7-001] that an updated Marine Licence application was submitted to NRW on 1 September 2023, with an acknowledgement being received on 4 September 2023. This is also confirmed in the Applicant's document entitled 'Other Consents and Licenses' [REP7-028]
- 3.4.2. Whilst the NRW Marine Licencing Team, on behalf of the Welsh Government, are responsible for the determination of the relevant marine licences, full consideration has been given to the Marine and Coastal Access Act and other relevant marine plans and policies by the ExA.

### **3.5. UK REGULATIONS DERIVING FROM EUROPEAN LAW EUROPEAN UNION WITHDRAWAL**

- 3.5.1. The UK left the EU as a member state on 31 January 2020 with the transition period concluding on 31 December 2020. EU derived domestic legislation, as it has effect in domestic law immediately before exit day, continues to have effect in domestic law on and after exit day as retained law unless it is specifically superseded.
- 3.5.2. This report has been prepared on the basis of the retained law and references in it to European terms such as 'habitats' have generally been retained for consistency with the Examination documents. However, where terminology has changed, for example 'National Site Network'

rather than 'Natura 2000 network', the amended terminology will be utilised.

- 3.5.3. Since there may be changes in legislation between the writing of this report and the SoS's decision, it will be for the SoS to satisfy themselves as to the position on retained law and obligations at the point of decision.

## **3.6. WELSH LEGISLATION, POLICY, AND GUIDANCE**

- 3.6.1. Relevant Welsh legislation, policy and guidance includes:

- The Wales Act 2017.
- The Planning (Wales) Act 2015.
- The Well-being of Future Generations (Wales) Act 2015.
- The National Development Framework - Future Wales: The National Plan 2040 (2021).
- The Environment (Wales) Act 2016.
- The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target).
- Environmental Permitting (England and Wales) Regulations 2016.
- The Historic Environment (Wales) Act 2016.
- Welsh National Marine Plan 2019.
- Planning Policy Wales (Edition 11, February 2021) and associated Technical Advice Notes (TAN), including the TANs that post-date the relevant NPSs including:
  - TAN1 (2015) Joint housing land availability studies;
  - TAN12 (2016) Design;
  - TAN20 (2017) Planning and the Welsh language;
  - TAN21 (2014) Waste;
  - TAN23 (2014) Economic development; and
  - TAN24 (2017) The historic environment.
- Net Zero Wales Carbon Budget 2 (2021-25) (Welsh Government, 2021).
- A Carbon Capture, Utilisation, & Storage Network for Wales (March 2021).
- Prosperity for All: Low Carbon Wales (2019).
- Welsh Government Practice Guidance: Planning Implications of Renewable Energy and Low Carbon Energy (2011).
- Welsh Government Practice Guidance: Planning Implications of Renewable Energy and Low Carbon Energy – A Toolkit for Planners (2015).
- Natural Resources Policy (2017).
- Nature Recovery Action Plan for Wales 2020-21.
- The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.
- Government of Wales Act (2006).
- Wales Spatial Plan (2008).
- Welsh Language Act 1993 and Welsh Language Measure (Wales) 2011.
- Equality Act 2010 (Statutory Duties) Wales Regulations 2011.
- Active Travel (Wales) Act 2013.



- Elements of Welsh Government energy, climate and infrastructure policy documents.
- Welsh Government climate emergency declaration (2019).
- Welsh National Resources Policy.
- Nature Recovery Action Plan Wales.

### **3.7. UK LEGISLATION, POLICY, AND GUIDANCE**

3.7.1. Relevant UK legislation, policy and guidance, which is not listed at paragraph 3.6.1 above includes:

- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations).
- The Environmental Permitting (England and Wales) Regulations 2016.
- The Conservation of Habitats and Species Regulations 2017.
- The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.
- The Environment Act 2021.
- Air Quality Standards Regulations 2010, made under the Environment Act 1995.
- The Air Quality Standards Regulations 2010.
- The Air Quality Strategy.
- The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (as amended).
- The Infrastructure Planning (Decisions) Regulations 2010.
- United Nations Environment Programme Convention on Biological Diversity 1992.
- The Town and Country Planning Act 1990.
- The Highways Act 1980.
- The Control of Pollution Act 1974.
- The Noise Policy Statement for England.
- National Planning Practice Guidance.
- The Environment Act 1995.
- The Environmental Protection Act 1990.
- The Air Quality Strategy for England.
- The Water Resources Act 1991.
- The Flood and Water Management Act 2010.
- The Water Act 2003.
- The Water Act 2014.
- The Land Drainage Act 1991.
- The UK Biodiversity Action Plan.
- The Wildlife and Countryside Act 1981.
- The Natural Environment and Rural Communities Act 2006.
- The Countryside and Rights of Way Act 2000 (as amended).
- The Planning (Listed Buildings and Conservation Areas) Act 1990.
- The Ancient Monuments and Archaeological Areas Act 1979.
- The Human Rights Act 1998.
- The Equality Act 2010.
- The Climate Change Act 2008.
- The Climate Change Act 2008 (2050 Target Amendment) Order 2019).

- The Paris Agreement (2015) The Ramsar Convention of Wetlands of International Importance 1971.

### **3.8. MADE DEVELOPMENT CONSENT ORDERS**

3.8.1. The Applicant in its Explanatory Memorandums [REP7-018] and [REP7-018], together with its responses to the ExA's First Written Questions [REP1-044] and request for further information on 14 September 2023, made under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010 [REP9-012], has made reference to the following made Orders to support its position:

- Swansea Bay Tidal Generating Station Order 2015.
- A14 Cambridge to Huntingdon Improvement Order 2016.
- River Humber Gas Pipeline Replacement Order 2016.
- Thorpe Marsh Gas Pipeline Order 2016.
- National Grid (Richborough Connection Project) DCO 2017.
- A19/A184 Testo's Junction Alteration Order 2018.
- Silvertown Tunnel Order 2018.
- A585 Windy Harbour to Skippool Highway DCO 2020.
- Lake Lothing (Lowestoft) Third Crossing Order 2020.
- M42 Junction 6 DCO 2020.
- Norfolk Vanguard Offshore Wind Farm Order 2020.
- Reinforcement to the North Shropshire Electricity Distribution Network Order 2020.
- Norfolk Boreas Offshore Wind Farm Order 2021
- A47 Blofield to North Burlingham DCO 2022.
- A47/A11 Thickthorn Junction DCO 2022.
- A57 Link Roads DCO 2022.
- A417 Missing Link DCO 2022.
- A428 Black Cat to Caxton Gibbet DCO 2022.
- Hornsea Three Offshore Wind Farm Order 2020.
- Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.
- M25 Junction 28 DCO 2022.
- M54 to M6 Link Road DCO 2022.
- Thurrock Flexible Generation Plant DCO 2022.
- A38 Derby Junctions DCO 2023.
- A47 Wansford to Sutton DCO 2023.

3.8.2. In addition to the above, the Applicant made reference to a number of NSIP Applications which were not determined at the close of the Examination. These included the:

- A56 Link Roads (previously known as Trans-Pennine Upgrade Programme).
- A66 Northern Trans-Pennine Project.
- Drax Bioenergy with CCS Project.
- Medworth Energy from Waste Combined Heat and Power Facility.
- North Lincolnshire Green Energy Park.
- Sheringham and Dudgeon Extension Projects.
- Slough Multifuel Extension Project.
- Yorkshire Green.

3.8.3. The ExA has had regard to all of the above-mentioned Orders where relevant.

### **3.9. OTHER RELEVANT POLICY, PLANS AND REPORTS**

3.9.1. Other relevant Government policy has been taken into account by the ExA, including the following:

- **Energy white paper: Powering our net zero future (BEIS), 2020:**
  - Clean electricity will become the predominant form of energy, entailing a potential doubling of electricity demand and consequently a fourfold increase in low-carbon electricity generation. We must secure this transition while retaining the essential reliability, resilience and affordability of our energy.
  - Given the pivotal role of electricity in delivering net zero emissions, we must aim for a fully decarbonised, reliable and low-cost power system by 2050.
  - The electricity market should determine the best solutions for very low emissions and reliable supply, at a low cost to consumers.
  - The review will seek the appropriate balance between environmental, social and economic costs.
- **The National Infrastructure Plan 2014** sets out a vision for the UK's infrastructure, reinforcing the Government's commitment to investing in infrastructure and improving its quality and performance.
- **The National Infrastructure Delivery Plan (2016 - 2021)**, which built upon the National Infrastructure Plan 2014 and brought together the Government's plans for economic infrastructure over a five-year period (2016 - 2021) with those to support the delivery of housing and social infrastructure.
- **The 'Clean Growth Strategy – Leading the way to a low carbon future' (BEIS) 2017**, which sets out the aims of the Government to deliver increased economic growth while reducing carbon emissions.
- **The 'Clean Growth – The UK Carbon Capture, Usage and Storage (CCUS) deployment pathway - An Action Plan' (BEIS), 2018** confirming the Government's vision for the UK to become a global leader in CCUS. The action plan aims at enabling the development of the first CCUS facility in the UK, with commissioning in the mid-2020s, supporting the ambition of being able to deploy CCUS at scale during the 2030s.
- **National Infrastructure Assessment 2018 (National Infrastructure Commission)** looked across different infrastructure sectors coming to an independent conclusion based on the best available evidence that the National Infrastructure Assessment presented a clear, long-term strategy for the UK's economic infrastructure from 2020 to 2050, providing long term

clarity for industry and the supply chain. This document also set out a number of recommendations, with a key theme being 'Low cost, low carbon' stating that the UK can and should have low cost and low carbon electricity, heat and waste.

- **'Net Zero' by 2050 (HM Government, 2019)** was the Government announcement made when the Climate Change Act 2008 (2050 Target Amendment) Order 2019 came into force on 27 June 2019. This Order enshrined within UK law the commitment to achieve 'Net Zero' in terms of GHG emissions by 2050.
- **The National Infrastructure Commission's report 'Net Zero - Opportunities for the power sector'** was published in March 2020, in order to update the modelling, assumptions and recommendations in the National Infrastructure Assessment 2018 mentioned above and respond to the Government's decision in June 2019 to legislate for a 'Net Zero' GHG emissions target for the whole economy by 2050, via the Climate Change Act 2008 (2050 Target Amendment) Order 2019.
- **Government Response on potential business models for CCUS (2020)**, which set out the Government's response to stakeholder engagement on matters falling under the following headings:
  - Deploying CCUS in the 2020s.
  - Parameters, Integration and Usage.
  - CO<sub>2</sub> Transport and Storage.
  - Power CCUS.
  - Industrial CCUS.
  - Low Carbon Hydrogen Production.
- **The National Infrastructure Strategy (November 2020)**, which sets out a foundation for future priorities and investments in order to radicalise the delivery of effective infrastructure in pursuance of the net zero emissions target by 2050. It accompanied the then Prime Minister's 10-point plan to decarbonise the economy across all sectors including energy, transport and industry. In particular, it considers:
  - increasing reliance on renewable and low carbon energy projects and technologies;
  - enhancing the digital network by expanding the gigabit-capable broadband programme to enable full-fibre connectivity across 85% of the UK by 2030;
  - embedding good design in all infrastructure projects;
  - improving public transport to tackle congestion and air pollution arising from traffic; and
  - working within Government departments to review NPSs.
- **Net Zero Strategy: Build Back Greener (HM Government, 2021)** expands on key commitments in the Energy white paper,

proposing to deliver "four CCUS clusters, capturing 20-30 MtCO<sub>2</sub> across the economy, including 6 MtCO<sub>2</sub> of industrial emissions, per year by 2030."

Note: This strategy was found to be unlawful by the High Court, in its judgment [2022] EWHC 1841 (Admin)<sup>5</sup>. Whilst the Net Zero Strategy was not quashed, a report that addresses the concerns identified within the strategy must be prepared and submitted, with compliance required by 31 March 2023.

- **Government Consultation regarding Future policy framework for power with CCUS.** This consultation document is seeking views and evidence on how government can best support the continued deployment of power with CCUS projects into the 2030s beyond Track-1 of the Cluster Sequencing process. The call for evidence closes 17 October 2022. Topic areas include:
  - competitive allocation design for power with CCUS;
  - the evolution of the business model used to support power with CCUS;
  - the development of the power with CCUS sector and supply chain; and
  - how power with CCUS could operate under future market arrangements.
- **UK Low Carbon Transition Plan (2009).**
- **National Strategy for Climate and Energy (July 2009).**

3.9.2. The ExA notes that whilst there is no designated NPS in force for CO<sub>2</sub> pipelines, the Government's policy, and strategy in support of CCUS and related infrastructure indicates a clear direction of travel in relation to such development proposals.

### **3.10. THE NATIONAL PLANNING POLICY FRAMEWORK**

3.10.1. The NPPF (5 September 2023) and its accompanying Planning Practice Guidance set out the Government's planning policies for England and how these are expected to be applied. This is for the particular purpose of making development plans and deciding applications for planning permission and related determinations under the Town and Country Planning Act 1990.

3.10.2. At the close of the Examination the NPPF (5 September 2023) was the relevant version of the NPPF. Both the NPPF and Planning Practice Guidance are likely to be important and relevant considerations in decisions on NSIPs, but only to the extent relevant to that project. Paragraph 5 of the NPPF makes it clear that the document does not contain specific policies for NSIPs, where particular considerations can

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<sup>5</sup> <https://www.judiciary.uk/wp-content/uploads/2022/07/FoE-v-BEIS-judgment-180722.pdf>

apply. However, it does note that the NPPF and the policies within it may be matters considered to be both important and relevant to NSIPs.

- 3.10.3. Whilst the ExA has considered the relevant NPPF in place at the close of the Examination, it is aware that the SoS released an updated NPPF on 19 December 2023. The ExA has not considered the NPPF (19 December 2023) in this Report, as it was published following the closure of the Examination. Indeed, to be clear references in this report are to the NPPF (September 2023) unless specified otherwise. Irrespective of this, the SoS for DESNZ, may consider the NPPF (19 December 2023) to be an important and relevant consideration in the determination of this NSIP submission and may wish to take it into account.

### **3.11. LOCAL IMPACT REPORTS**

- 3.11.1. Sections 104 and 105 of the PA2008 state that in deciding an application the SoS must have regard to any LIR within the meaning of s60(3) of the PA2008. A LIR is a report made by a relevant local authority giving details of the likely impact of a Proposed Development on the authority's area (or any part of that area) that had been invited and submitted to the ExA under s60 of the PA2008.
- 3.11.2. The ExA's Rule 6 letter [PD-011] contained a formal request under s60(2) of the PA2008 to eligible local authorities to submit LIRs by DL1. This was discussed during the Preliminary Meeting on 20 March 2023, where FCC and CWCC sought to set the LIR submission date back. As a result the ExA's Rule 8 Letter [PD-012], finalising the Examination timetable introduced a new DL (DL1A) of Wednesday 26 April 2023 to accommodate the submission of finalised LIRs, as all parties appeared to be in agreement and satisfied with such an amendment following the discussions on this matter at the Preliminary Meeting.
- 3.11.3. The LIR set out the principal local planning policies and other policies relevant to the Proposed Development and provided commentary on the consideration of local impacts. Matters raised in the LIR are discussed in this report and have been fully considered by the ExA.

### **3.12. THE DEVELOPMENT PLAN**

- 3.12.1. The legal requirement under s38(6) of the Planning and Compulsory Purchase Act 2004 to determine applications for development consent in accordance with development plan documents does not apply to applications under the PA2008. However, in the case of this application the ExA considers the respective development plan for FCC and CWCC to be important and relevant.
- 3.12.2. NPS EN-1 confirms that policies in development plans and other Local Development Framework documents may be considered important and relevant in planning decision-making. However, in the event of a conflict, the NPSs prevail for the purpose of decision-making by the SoS. The development plan is therefore a material consideration for the SoS and has accordingly been considered as part of the policy context for the Proposed Development.

3.12.3. The development plans for the local authority areas within which the development lies comprises:

- For FCC:
  - The Flintshire Local Development Plan (2015-2030), which was adopted on 24 January 2023.
- For CWCC:
  - The CWCC Local Plan (Part One) Strategic Policies, which was adopted on 29 January 2015; and
  - The CWCC Local Plan (Part Two) Land Allocations and Detailed Policies, which was adopted on 18 July 2019.

3.12.4. The development plan policies most relevant are listed against each policy document below:

- The Flintshire Local Development Plan (2015-2030), adopted on 24 January 2023:
  - Policy STR1 (Strategic Growth).
  - Policy STR4 (Principles of Sustainable Development, Design and Placemaking).
  - Policy STR5 (Transport and Accessibility).
  - Policy STR7 (Economic Development, Enterprise and Employment).
  - Policy STR12 (Provision of Gypsies and Travellers).
  - Policy STR13 (Natural and Built Environment, Green Networks and Infrastructure).
  - Policy STR14 (Climate Change and Environmental Protection).
  - Policy STR16 (Strategic Planning for Minerals).
  - Policy PC2 (General Requirements for Development).
  - Policy PC3 (Design).
  - Policy PC5 (Transport and Accessibility).
  - Policy PC8 (Airport Safeguarding Zone).
  - Policy PC10 (New Transport Schemes).
  - Policy EN1 (Sports, Recreation and Cultural Facilities).
  - Policy EN2 (Green Infrastructure).
  - Policy EN4 (Landscape Character).
  - Policy EN5 (Area of Outstanding Natural Beauty).
  - Policy EN6 (Sites of Biodiversity Importance).
  - Policy EN7 (Development Affecting Trees, Woodlands and Hedgerows).
  - Policy EN8 (Built Historic Environment and Listed Buildings).
  - Policy EN9 (Development In or Adjacent to Conservation Areas).
  - Policy EN11 (Green Wedges).
  - Policy EN12 (New Development and Renewable and Low Carbon Energy Technology).
  - Policy EN14 (Flood Risk).
  - Policy EN15 (Water Resources).
  - Policy EN16 (Development on or near Landfill Sites or Derelict and Contaminated Land).
  - Policy EN18 (Pollution and Noise).
  - Policy EN19 (Managing Waste Sustainably).

- Policy EN23 (Minerals Safeguarding).
- Policy EN24 (Minerals Buffer Zones).
- The CWCC Local Plan (Part One) Strategic Policies, Adopted 29 January 2015:
  - Policy STRAT1 (Sustainable Development).
  - Policy STRAT2 (Strategic Development).
  - Policy STRAT 4 (Ellesmere Port).
  - Policy STRAT9 (Green Belt and Countryside).
  - Policy STRAT10 (Transport and Accessibility).
  - Policy STRAT 11 (Infrastructure).
  - Policy ECON1 (Economic Growth, Employment and Enterprise).
  - Policy SOC 4 (Gypsy and Traveller and Travelling Showpersons accommodation).
  - Policy SOC 5 (Health and wellbeing).
  - Policy SOC6 (Open Space, Sport and Recreation).
  - Policy ENV1 (Flood Risk and Water Management).
  - Policy ENV2 (Landscape).
  - Policy ENV3 (Green Infrastructure).
  - Policy ENV4 (Biodiversity and Geodiversity).
  - Policy ENV5 (Historic Environment).
  - Policy ENV6 (High Quality Design and Sustainable Construction).
  - Policy ENV7 (Alternative Energy Supplies).
  - Policy ENV8 (Managing Waste).
  - Policy ENV9 (Minerals Supply and Safeguarding).
- The CWCC Local Plan (Part Two) Land Allocations and Detailed Policies, adopted on 18 July 2019:
  - Policy EP1 (Ellesmere Port settlement area).
  - Policy EP2.A (Land at Encirc Glass).
  - Policy EP3 (Stanlow Special Policy Area).
  - Policy EP 6 – (Ince Park).
  - Policy R1 (Development in the Rural Area).
  - Policy GBC2 (Protection of Landscape).
  - Policy M2 (Minerals safeguarding areas - prior extraction of minerals).
  - Policy M8 (Minerals Infrastructure).
  - Policy DM2 (Impact on residential amenity).
  - Policy DM3 (Design, Character and Visual Amenity).
  - Policy DM4 (Sustainable Construction).
  - Policy DM29 (Health Impacts of New Development).
  - Policy DM30 (Noise).
  - Policy DM31 (Air Quality).
  - Policy DM32 (Land Contamination and Instability).
  - Policy DM33 (New or Extension to Hazardous Installations).
  - Policy DM 37 (Recreational Routeways).
  - Policy DM40 (Development and Flood Risk).
  - Policy DM43 (Water Quality, Supply and Treatment).
  - Policy DM44 (Protecting and Enhancing the Natural Environment).
  - Policy DM45 (Trees, Woodland and Hedgerows).
  - Policy DM46 (Development in Conservations Areas).



- Policy DM47 (Listed Buildings).
- Policy DM48 (Non-designated Heritage Assets).
- Policy DM50 (Archaeology).

3.12.5. In addition to the above CWCC have made reference to the Ince Neighbourhood Plan (2023-2030). However, it had not been made (adopted) by the close of the Examination but had been subject to public consultation between 30th January and 14th March 2023. As such, the ExA considers only limited weight could be applied to this document. The list below provides an overview of relevant policies contained within that document:

- Policy LGS1 (Local Green Space).
- Policy NAT1 (Wildlife Sites, Indicative Wildlife Corridors and Biodiversity).
- Policy NAT5 (Trees and Hedgerows).
- Policy CC2 (Air Quality).
- Policy FBC1 (Footpaths, Bridleways and Cycleways).
- Policy ECDEV2 (Employment Development).

### **3.13. TRANSBOUNDARY EFFECTS**

3.13.1. In December 2021, during the pre-application stage, and under the EIA Regulations s32 process, the Planning Inspectorate undertook transboundary screening of the Proposed Development on behalf of the SoS [OD-009]. On the basis of information available from the Applicant at that time it was found that the likelihood of transboundary effects resulting from the Proposed Development was not likely to have a significant effect on the environment in any European Economic Area Member States. As such it did not warrant the issue of a detailed transboundary screening. However, the screening indicated that this position would remain under review and regard would be had to any new or materially different information coming to light which may alter that decision.

3.13.2. Following the acceptance of the NSIP application for the Proposed Development for Examination, in February 2023, and under the EIA Regulations s32 process, the Planning Inspectorate re-considered the likelihood of transboundary effects resulting from the Proposed Development on behalf of the SoS [OD-009]. This re-consideration by the Planning Inspectorate, took into account any changes that had been made to the Proposed Development since the previous transboundary screening process was undertaken.

3.13.3. It was found, on the basis of the information available, there was no change from the previous conclusion, maintaining the position that the Proposed Development is not likely to have a significant effect on the environment in a European Economic Area State. This position has remained under review throughout the Examination, but no new or materially different information has come to light that alters this conclusion.

- 3.13.4. In reaching this conclusion, the likely impacts of the Proposed Development, including consideration of potential pathways and the extent, magnitude, probability, duration, frequency and reversibility of the impacts were considered.
- 3.13.5. No correspondence was received in relation to transboundary issues.

## **4. THE PLANNING ISSUES**

### **4.1. MAIN ISSUES IN THE EXAMINATION**

4.1.1. As required by section (s) 88 of the Planning Act 2008 (PA2008) and Rule 5 of The Infrastructure Planning (Examination Procedure) Rules 2010 (EPR), as the Examining Authority (ExA) made an Initial Assessment of Principal Issues (IAPI) arising from the application for the Proposed Development and based on the Relevant Representations (RRs) received. This was done within 21 days following receipt of the s58 certificate of compliance with s56 of the PA2008 provided by the Applicant [OD-001].

4.1.2. The ExA's IAPI comprised of the following topics:

- Assessment of alternatives (having regard to need).
- Climate change.
- Compulsory Acquisition (CA) and/ or Temporary Possession (TP).
- Cultural heritage.
- Design and layout matters.
- Draft Development Consent Order (dDCO).
- Biodiversity, ecology, and nature conservation interests.
- Environmental Impact Assessment (EIA) and Environmental Statement (ES).
- Flood risk, hydrology, and water resources.
- Geology and land contamination.
- Habitats Regulations Assessment (HRA).
- Landscape and visual amenity.
- Mineral resources.
- Noise and vibration.
- Planning policy.
- Socio-economic effects including population and human health.
- Traffic and transport interests.
- Waste management.

4.1.3. At the Preliminary Meeting [EV-001] no party questioned or expressed a wish to revise the ExA's IAPI. The IAPI was reviewed again by the ExA during the Examination following a series of Change Requests (CR) submitted by the Applicant, two of which (CR1 and CR2) triggered Regulations 5 to 19 of The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regulations)). This was due to the Applicant's proposed provision for the CA of additional land resulting from CR1 and CR2. Following the Applicant notifying in accordance with Regulation 7 and publishing notice of the proposed provisions in accordance with Regulation 8 of the CA Regulations, a number of RRs were received (CR1 [CR1RR-001] to [CR1RR-012] and CR2 ([CR2RR-001] and [CR2RR-002])).

4.1.4. In consideration of the CRs and the above-mentioned RRs the ExA made further IAPI (pursuant to Regulation 11(1) of the CA Regulations) in relation to both CR1 and CR2 and found no new issues had been raised that were not already identified in the ExA's original IAPI. Therefore, the

IAPI remained unaltered. Furthermore, having reached that conclusion, the ExA did not consider there to be a need to hold a meeting to discuss how the proposed provisions resulting from CR1 or CR2 should be examined, pursuant to Regulation 11(2) of the CA Regulations.

4.1.5. Whilst the principal issues identified subsequently formed the basis of the final assessment, the ExA considered them under the following headings in this chapter, in no order of importance:

- Air quality and emissions (which includes from dust, smoke, and steam).
- Assessment of alternatives.
- Biodiversity, ecology, and nature conservation.
- Need for the development.
- Climate change.
- Cultural heritage.
- Flood risk, water resources, land contamination and waste management.
- Landscape and visual amenity/ design and layout.
- Noise and vibration.
- Socio-economic effects (including human health and mineral working implications).
- Traffic and transport.

## **4.2. ISSUES ARISING IN WRITTEN SUBMISSIONS**

4.2.1. At the outset of, and during, the Examination members of the public and Interested Parties (IP) highlighted a range of climate and environmental related issues of concern.

4.2.2. Eighty-three RRs were made ([RR-001 to RR-083]) to the Proposed Development as originally submitted; with twelve further RRs being made pursuant to CR1 ([CR1RR-001] to [CR1RR-012]) and two additional RRs being received pursuant to CR2 ([CR2RR-001] to [CR2RR-012]). All the RRs have been considered.

### **Relevant Representations**

4.2.3. Concerns at RR stage can be summarised as including, but not limited to, the following matters:

- Inadequate overall justification of the need for the development.
- Better alternatives are available.
- Impacts to existing residential, school and community uses, businesses and commercial uses/ operations taking place in the vicinity, including existing and planned developments/ infrastructure, the movement of goods, parking and vehicle movements, the adequacy of all mitigations, and other related environmental considerations.
- Harm to existing agricultural activity and its subsequent viability.
- Interference with land rights.
- Wildlife impacts (inclusive of protective species).
- Tree loss and damage including several areas of ancient woodland.

- The impact to waterways (a canal), watercourses, and future safeguard adequacy.
- Erosion of highway safety and other public safety implications of the Proposed Development.
- Disruption to the road network and consideration of impacts to people with disabilities.
- Potential negative impacts to members of the gypsy and traveller community.
- Other impacts on the road network (including strategic roads).
- Access considerations including for temporary possession.
- Geological implications including from coal mining as well as subsequent soil fertility impacts.
- Adequacy of overall mitigations proposed by the Applicant.
- Opportunity for complementary fibre optic broadband uptake.
- Concerns with the degree of local engagement by the Applicant and stakeholders behind the Proposed Development.
- Noise, dust, visual impacts, and vibration.
- Flooding, drainage, and water resource implications.
- Wider public health and safety concerns.
- Potential sterilisation of soil/ land for crop growth, mineral working activity, leisure, or other activity.
- Uncertainties with Proposed Development technical details and effectiveness (including the overall Proposed Development effectiveness).
- The degree of local benefits or community benefits available.
- Pollution and other wider environmental effects.
- Extent of habitat/ other environmental enhancements on offer.
- Marine environment impacts, including the potential impact on the safety of navigation, access to ports, harbours and marinas and any impact on search and rescue obligations.

## **OTHER MATTERS (WRITTEN REPRESENTATIONS)**

- 4.2.4. Participants in the Examination were provided with the opportunity to make Written Representations at Deadline (DL) 1, to comment on them at DL2 and to respond in writing to the ExA's questions, to matters arising at hearings, to requests for further information and to Additional Submissions (AS), over nine DLs (DL2 to DL9, including a DL6A).
- 4.2.5. A total of 83 ASs, from 13 separate parties, were provided and taken into account by the ExA [AS-001] to [AS-083], albeit that many of the AS from the Applicant have been superseded by submissions made by it at subsequent DLs. The AS were received from the following:
- British Pipeline Agency Limited [AS-075].
  - Canal and River Trust [AS-065].
  - Cheshire West and Chester Borough Council (CWCC) [AS-080].
  - Flintshire County Council (FCC) [AS-078].
  - Fisher German LLP, on behalf of John Williams [AS-067].
  - J Bradburne Price and Co, on behalf of:
    - Andrew and Karen Hirst [AS-070].
    - John Calvin Peers [AS-071].

- The Executors of Gwynedd Evans [AS-072].
- Mr Andrew Mullock, JG & MA Brown & Son, Mr J.C. Peers, Execs of Mrs G. Evans, Mr D.L. Cunnah, Mr A. & Mrs K. Hirst, Mr E & Mrs J. Williams, Mr P. Hardern, Stephanie Roberts, Ian Bentley, Hewitt Family, Mr B., Mrs S. & Mr M. Jones (Mollington), Mr R, Mrs N., Mr I & Mr G. Jones (Picton), Mr & Mrs K.N. Garner and Michelle Elford [AS-073].
- Natural Resources Wales (NRW) [AS-074] and [AS-079].
- Stephen Gibbons [AS-064].
- Turley on behalf of Peel NRE [AS-068].
- United Utilities Water Limited [AS-061], [AS-062] and [AS-063].
- Welsh Government [AS-081], [AS-082] and [AS-083],
- The Woodland Trust [AS-069].
- The Applicant [AS-001] to [AS-060] (inclusive), [AS-066], [AS-076] and [AS-077]. (It should be noted that of the Applicant's ASs listed above the following AS have all been superseded [AS-002], [AS-005] to [AS-059] (inclusive), [AS-076] and [AS-077].

4.2.6. From these and other written submissions, including responses made to CRs, a range of matters emerged. Many were similar to those contributions summarised above, but others included:

- Whether the impacts of the development would harm or lead to the loss of trees and woodland (including ancient woodland and veteran trees) of a greater extent than detailed by the Applicant.
- Water resource implications in particular Water Framework Directive considerations.
- The consideration of existing historic planning obligation commitments for extant development and for land affected by the Proposed Development.
- Fuller consideration of alternatives for the Proposed Development.
- The impact on carbon reduction and sequestration using nature-based systems.
- Fuller consideration of wider environmental harms and impacts.
- Access and landownership issues post completion of the Proposed Development.
- Marine licensing considerations.
- The adequacy of requirements and protective provisions within the dDCO.

### **Statements of Common Ground**

4.2.7. Signed Statements of Common Ground (SoCG) between the Applicant and the following parties have been provided and have been taken into account as follows:

- 2 Sisters Food Group/ Amber Real Estate [REP7-275].
- Canal and River Trust [REP7-265].
- Cadw [REP6A-010].
- CWCC [REP8-021].
- Environment Agency (EA) [REP9-004].
- Essar Oil (UK) Limited [REP9-008].
- FCC [REP7-259].

- Historic England [REP6A-009].
- HyNet North-West Hydrogen Pipeline [REP7-280].
- National Highways [REP7-263].
- Natural England [REP8-022].
- NRW [REP7-261].
- Network Rail (England and Wales) [REP8-026].
- Peel NRE Limited [REP7-262].
- Royal Mail Group Limited [REP7-270].
- Scottish Power Energy Networks [REP7-267].
- Vertex Hydrogen Limited [REP8-027].
- Wales and West Utilities [REP9-009].
- Welsh Government [REP7-264].
- Welsh Water (Dŵr Cymru) [REP7-266].
- Woodland Trust, The [REP6A-015].

### **Issue Specific Hearings (Participation)**

- 4.2.8. The Applicant, CWCC, FCC, the EA, and NRW participated in the Issue Specific Hearing (ISH) in regard to environmental matters (ISH1), which was held as a blended event, both in person and virtually, and undertaken in three sessions (ISH1 Part 1 [EV-008], ISH1 Part 2 [EV-009] and ISH1 Part 3 [EV-010]). No new issues were raised in oral representations which were not addressed in written submissions.
- 4.2.9. The Applicant, CWCC, FCC, the EA, National Highways, Encirc Limited and Harwarden Community Council participated in the ISH2, in regard to the dDCO. This event was held as a blended event, both in person and virtually, and undertaken in three sessions (ISH2 Part 1 [EV-020], ISH2 Part 2 [EV-021] and ISH2 Part 3 [EV-022]). No new issues were raised in oral representations which were not addressed in written submissions.
- 4.2.10. The Applicant, CWCC and FCC participated in the ISH3, which was a stacked ISH in regard to Environmental Matters and the dDCO. This event was held as a blended event, both in person and virtually, and undertaken in three sessions (ISH3 Part 1 [EV-028], ISH3 Part 2 [EV-029] and ISH3 Part 3 [EV-030]). No new issues were raised in oral representations which were not addressed in written submissions.

### **Conclusion**

- 4.2.11. In concluding 'Other Matters (Written Representations)', the issues raised in RRs, WRs and responses to the ExA's questions, ASs and to matters arising at hearings have been responded to in the ExA's framework of issues set out below and are taken into account in the remainder of this report to the extent that they are important and relevant.

## **4.3. ISSUES ARISING IN LOCAL IMPACT REPORTS**

- 4.3.1. Two separate LIRs were submitted at DL1A (26 April 2023) by FCC [REP1A-005] (alongside appendices [REP1A-006]) and CWCC [REP1A-002] (alongside appendices [REP1A-003]), which the ExA have considered in this report and in regard to the recommendation made.

4.3.2. The Secretary of State (SoS) as the decision maker for the application has a duty to consider the LIRs under s60(3) of the PA2008 in accordance with the legal considerations referred to in Chapter 3 of this report.

### **Flintshire County Council LIR**

4.3.3. The key areas highlighted in FCC's LIR are as follows:

- From a carbon reduction perspective, FCC are supportive of the proposal due to the anticipated carbon emissions savings that would be prevented from entering the atmosphere. The HyNet Project would contribute to carbon reduction and, in turn aid the UK in its target to be net zero carbon by 2050.
- The wider HyNet Project would also contribute to relieving the strain on the national electricity grid, as it is understood that some of the hydrogen produced would be used in energy generation to supply domestic buildings.
- A significant proportion of the area covered by the HyNet network is largely industrial, currently emitting large amounts of carbon emissions, and if a proportion of this can be captured this would be beneficial, not just for the immediate areas in which the hydrogen production plant is proposed in Cheshire, but also for Flintshire and beyond. Furthermore, should the Development Consent Order (DCO) application for a carbon dioxide (CO<sub>2</sub>) pipeline be consented, this would provide opportunities in the future (subject to separate consenting) for large CO<sub>2</sub> emitting industries to capture their carbon and connect and 'tie-in' to the proposed HyNet CO<sub>2</sub> pipeline for offshore storage.
- FCC agree that the proposal would deliver clear and substantial benefits on a local, regional, and national level.
- However, FCC point out a number of constraints with the wider HyNet Project. This relates to the point that HyNet proposes the production of what is known as 'Blue' Hydrogen; using natural gas (a fossil fuel) in order to accelerate the move to a zero-carbon energy network. FCC consider this to appear somewhat counter intuitive as it does not consider it represents an avoidance of emissions and it may further encourage investment into natural gas industries and potentially away from the renewable energy sector. Whilst it can be noted that 'Blue' Hydrogen represents somewhat of a stop gap, if hydrogen networks are to be developed then ultimately these need to switch to renewable energy enabled 'Green' Hydrogen in order to truly reach net zero carbon, which is currently not particularly feasible at scale, although this is being further developed as part of UK Government's 'twin track' approach.
- With respect to biodiversity and ecological interests. FCC acknowledges the protected habitats and species located within its administrative boundary are consistent with the Applicant's appraisal. In doing so FCC makes technical comments and suggestions on the range of mitigatory measures proposed by the



Applicant either where there is thought to be an omission or potential scope for betterment.

- In terms of the Biodiversity Net Gain Assessment, provided comments in the LIR have been relied on by colleagues in CWCC with regards to actual gains (as opposed to benefits as the Welsh Government guidance refers).
- FCC notes that Welsh planning policy encourages there is an opportunity to look at wider benefits for ecosystem resilience which includes the specified proposals set out in the Biodiversity Net Gain report but could include wider species opportunities.
- With respect to Local Plan policy adherence. A case for very special circumstances has been made by the Applicant in its Planning Statement which concerns the effect on the openness of the Cheshire Green Belt and not the Flintshire 'green wedge'. FCC considered the Applicant should provide a case for 'very exceptional circumstances' for inappropriate development in the Flintshire green wedge in relation to the Aston Hill Block Valve Station so that a judgement can be made as to whether the harm of the Block Valve Station on the green wedge would be outweighed by the need for the development.
- No significant concerns are identified by FCC relating to the Landscape and Visual Impact Assessment process and the assessments that have been made for the construction, operational and decommissioning stages of the Proposed Development.
- Tree impacts. It is broadly accepted by FCC that the Applicant has sought to minimise impacts to trees and woodlands as much as possible, by the careful planning of the DCO pipeline route through the open countryside. That said tree removal uncertainties arising from the Proposed Development are noted.
- With respect to noise and vibration impacts. More detail is advocated to be required with regards to specific mitigation during construction and decommissioning stages, on the understanding at each stage of the development a full Construction Environmental Management Plan would be submitted for approval. Therefore, FCC seeks to ensure that a greater level of detail is submitted with regards to noise mitigation at each stage for subsequent approval.
- FCC agree with the methodology, extent of impact and proposed mitigation for land contamination.
- Highways impacts. FCC broadly accepted that the adverse impacts on the highway network, for the construction phase, can be adequately mitigated, although it should be noted that FCC's position on this matter subsequently changed in terms of highways works being able to be completed under a Street Works Licence, due to National Highways representations on this matter.
- In terms of public rights of way implications. FCC's main concerns surround construction compound areas, permanent access tracks at some locations, and its interest in Deeside Lane and Bridleway No. 9 being identified as being used for the construction access for traffic (Works No. 30E).
- FCC largely defer to NRW, as the statutory body for coastal and fluvial flood risk, on matters relating to flooding. However, the

Lead Local Flood Authority offered alternative wording within the Supplemental Powers contained in Part 4 of the dDCO having regard to drainage issues.

### **Cheshire West and Cheshire Borough Council LIR**

4.3.4. The key areas highlighted in the LIR are as follows:

- In line with the Local Plan, CWCC recognises the wider economic benefits of the Proposed Development together with the benefits of the 'HyNet North-West' (a project for the creation of infrastructure to produce, transport and store low carbon hydrogen across the North-West and Wales), through the creation of new job opportunities and support for existing businesses across a wide range of sectors.
- Some of the borough's major employers are in the vicinity of the pipeline in Ellesmere Port and Ince areas. The Proposed Development falls within an area safeguarded for economic/ employment uses in the Local Plan. The Council highlights the Proposed Developments potential for adverse local economic impacts. Particularly the existing businesses/ operations or future expansion redevelopment plans, such as at Protos, Encirc, and CF Fertilisers business sites.
- Considers that there would be mostly limited impacts on the historic environment and that further detail and mitigation can be provided and secured as part of the Proposed Development albeit with further heritage assessments either within a revised Outline Landscape and Ecological Management Plan or directly by the wording of the requirements in the dDCO.
- Comments are made on biodiversity interests. Incomplete surveys are noted which suggests some doubt regarding the robustness of conclusions of level of impacts on ecological receptors.
- The Borough of Cheshire West and Chester is a key supplier of high-quality sand and gravel. It should be noted there is a requirement to have a 7-year landbank of aggregates, based on past sales or on the set apportionment figure. Owing to resource demand there is likely to be increasing pressure on those areas with available aggregates. A Minerals Management Plan is encouraged to include details of the material to be extracted/ removed from the ground and an assessment of opportunities for processing and/ or re-use of the material.
- It is noted that the Proposed Development has the potential to impact upon a large number of trees and hedgerows along its route. Whilst the initial submitted desk study did not identify any veteran trees the subsequent surveys show 34 trees as veteran. Losses of veteran trees represent the loss of an 'irreplaceable habitat' and has permanent long-standing effects on both the landscape and habitats. Four veteran trees (3 native oaks and a willow) are proposed to be removed with a further two at risk. The loss of up to six veteran trees is raised as a significant local impact both in terms of habitat and visual landscape wise and would conflict with guidance within the National Planning Policy Framework and the Local Plan.

- CWCC is in general agreement with the assessment of waste, contaminated land, and noise impacts within the ES.
- The Council raise the potential for impacts on public rights of way because of changes to local drainage. In particular, it highlights Works Nos: 13, 14, 15A and 28.
- CWCC highlight the potential for significant impacts from road closures upon residents and including access to Mollington Primary School.
- CWCC defer to anticipated comments from the EA to ensure any appropriate mitigatory measures are in place to ensure no exacerbation of localised flood risk.
- CWCC also highlight the potential for significant impacts from the combined effects with other developments and infrastructure projects including the national HS2 project. It refers to the likely combined effects on minerals supply, waste generation and transport being notable points and highlights the potential for impacts resulting from the cross over between other Nationally Significant Infrastructure Projects (NSIP) including the HyNet Hydrogen Pipeline.

4.3.5. The ExA has considered all matters raised in the submitted LIRs. Some of these matters are discussed in more detail in Chapters 5 and 6 of this report.

## **4.4. CONFORMITY WITH NATIONAL POLICY STATEMENTS**

4.4.1. Section 104 and s105 of the PA2008 provide for the approach to be taken to decisions where National Policy Statements (NPS) have effect (s104) and where no NPS has effect (s105). As there is no NPS in force for CO<sub>2</sub> pipelines, the Applicant argues the Proposed Development falls to be determined under s105 of the PA2008 and the ExA has no reason to disagree. As such the ExA considers the NPSs detailed below to be important and relevant in the determination of this Proposed Development, in accordance with s105(2)(c) of the PA2008.

4.4.2. This section sets out an overarching analysis of the conformity of the Proposed Development with the relevant NPSs, identified in Chapter 3 above as being NPS EN-1 (Overarching National Policy Statement for Energy) and NPS EN-4 (NPS for Gas Supply Infrastructure and Gas and Oil Pipelines).

4.4.3. This section also sets out an overarching analysis of the conformity of the Proposed Development with the relevant draft NPSs (dNPS), identified in Chapter 3 above as being dNPS EN-1, and dNPS EN-4, which were originally published on 6 September 2021 by the Department for Business, Energy and Industrial Strategy for consultation. Updated versions of these dNPSs were re-published by the Department for Energy Security and Net Zero, with a fresh consultation period commencing on 30 March 2023, with the consultation closing on 23 June 2023.

- 4.4.4. For clarity, unless stated otherwise, references to NPSs hereafter refer to NPSs designated in 2011; whilst references to dNPSs hereafter refer to dNPSs dated March 2023.

## **NPS EN-1**

- 4.4.5. The Applicant analysed the performance of the Proposed Development against relevant policies in NPS EN-1 and NPS EN-4 within its Planning Statement [REP4-022]. The ES considers the principle of, and need for, the Proposed Development within the framework provided by the NPSs.
- 4.4.6. The Applicant notes NPS EN-1 does not specifically reference or provide guidance for Carbon Capture and Storage (CCS) for hydrogen production or industrial de-carbonisation solutions within the UK. However, it does consider it to contain useful policy references that include overarching principles that support decarbonisation and diversity of energy supply, which the Proposed Development seeks to achieve.
- 4.4.7. The Applicant notes the primary focus of this NPS is on energy generation but includes details regarding the requirement for infrastructure to deliver this overarching goal. Paragraph 3.1.1 of NPS EN-1 recognises "*The UK needs all the types of energy infrastructure covered by this NPS in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions*". As such the Applicant considers NPS EN-1 enables it to draw on the policies of that NPS as matters of relevance and importance in relation to the Proposed Development.
- 4.4.8. NPS EN-1 further elaborates that the "*Government would like industry to bring forward many new low carbon developments (renewables, nuclear and fossil fuel generation with CCS) within the next 10 to 15 years to meet the twin challenge of energy security and climate change by 2050*" (paragraph 3.3.5).
- 4.4.9. As such the Applicant considers the Proposed Development aligns with the objectives of the UK Government to reduce carbon emissions and would contribute to the challenges of energy security and climate change by facilitating carbon capture for industry in the North-West and Wales.
- 4.4.10. NPS EN-1 Part 2 sets out Government policy on energy and energy infrastructure development and outlines the overall policy context for nationally significant energy infrastructure. It confirms the Government's commitment "*...to meeting our legally binding target to cut greenhouse gas emissions by at least 80% by 2050, compared to 1990 levels. Analysis done on possible 2050 pathways shows that moving to a secure, low carbon energy system is challenging, but achievable. It requires major investment in new technologies to renovate our buildings, the electrification of much of our heating, industry and transport, prioritisation of sustainable bioenergy and cleaner power generation.*" (paragraph 2.2.1).

- 4.4.11. The Applicant considers the Proposed Development will deliver industrial decarbonisation to meet this goal of a low carbon energy system and the subsequent greater commitment to achieve net zero by 2050.
- 4.4.12. Part 2 of NPS EN-1 highlights energy as being vital to economic growth, social well-being and achieving 2050 targets, whilst noting reforms to the approach and delivery of energy infrastructure are required. This is further expanded on in paragraphs 2.2.5 to 2.2.11 with paragraph 2.2.5 referring to *"The transition to a low carbon economy"* and paragraph 2.2.6 stating *"The UK needs to wean itself off such a high carbon energy mix: to reduce greenhouse gas emissions, and to improve the security, availability and affordability of energy through diversification."*
- 4.4.13. The Applicant argues the Proposed Development will support a transition to a lower carbon economy, in accordance with the policies of NPS EN-1, whilst noting the reuse of existing infrastructure would make the overall viability more effective and represents diversification of delivery.
- 4.4.14. Part 2 of NPS EN-1 is considered to established that it is critical that the UK continues to have secure and reliable supplies of electricity as it makes the transition to a low carbon economy, whilst Part 3 emphasises the need for energy infrastructure at the national level.
- 4.4.15. NPS EN-1 paragraph 3.2.2 states *"we need to become less dependent on some forms of energy, as new and innovative low carbon technologies and energy efficiency measures are taken up"*. Paragraph 3.3.5 is also considered relevant in that it states *"The UK is choosing to largely decarbonise its power sector by adopting low carbon sources quickly and there are likely to be advantages to the UK of maintaining a diverse range of energy sources so that we are not overly reliant on any one technology. This is why Government would like industry to bring forward many new low carbon developments (renewables, nuclear and fossil fuel generation with CCS...)"*.
- 4.4.16. The Applicant argues this establishes that, due to both a reducing energy generating capacity and accomplishing carbon reduction needs, new energy infrastructure is needed. In order to secure energy supplies that enable the UK to meet its climate change obligations to 2050, paragraph 3.3.15 sets out an urgent need for new energy infrastructure to be brought forward as soon as possible.
- 4.4.17. Whilst the NPS makes it clear that there is a need for the UK to move away from fossil fuels for electricity generation, it also recognises the urgent need for energy infrastructure to achieve energy security with substantial weight being given to the contribution which projects would make towards satisfying this need. It also requires that the application should be assessed on the basis that the Government has demonstrated that there is a need for the types of infrastructure covered by the energy NPSs.
- 4.4.18. Additionally, paragraphs 3.6.4 to 3.6.7 of NPS EN-1 explain the role CCS can have in meeting emissions targets while maintaining security of

supply, as CCS has the potential to reduce carbon emissions by 90%. These paragraphs note the uncertainty about the future deployment of CCS in the economy but consider they can be resolved by demonstrating CCS at commercial scale, which the Government is supportive of, noting commercial scale demonstration projects are a priority for UK energy projects.

- 4.4.19. Part 4 of NPS EN-1 sets out a number of assessment principles that must be taken into account by applicants and the SoS in preparing and determining applications for nationally significant energy infrastructure. General points include the requirement for the SoS to start with a presumption in favour of granting consent for applications for energy NSIPs (paragraph 4.1.2). This presumption applies unless any more specific and relevant policies set out in the relevant NPS clearly indicate that consent should be refused.
- 4.4.20. Paragraph 4.4.1 of NPS EN-1 states that there is no general requirement to consider alternatives or to establish whether the Proposed Development represents the best option. At the same time, paragraph 4.4.2 indicates that applicants are obliged to include within its ES information about the main alternatives studied and explain the main reasons for its choice.
- 4.4.21. Section 5 of NPS EN-1 sets out potential generic impacts of energy infrastructure that must be taken into account in assessing projects but there are no details specific to Carbon Capture, Utilisation and Storage (CCUS) provided within this NPS. However, potential generic impacts are assessed, where relevant, in the following sections of this report.

### **dNPS EN-1 (Overarching NPS for Energy)**

- 4.4.22. With regard to dNPS EN-1 (Overarching NPS for Energy) it is considered to be an 'important and relevant' consideration for the purposes of s105 of the PA2008. It notes Part 2 outlines the policy context for the development of nationally significant energy infrastructure and sets out the Government's commitment to delivering decarbonisation targets and meeting its net zero emissions target by 2050.
- 4.4.23. It aims to achieve this by taking steps to decarbonise the UK's power networks, whilst acknowledging that to produce enough energy required for the UK and ensure it can be transported to where it is needed, a significant amount of infrastructure is needed at both local and national scale (paragraph 2.1.1 and 2.1.2). The Applicant believes this includes the infrastructure needed to capture, transport and store CO<sub>2</sub> and the delivery of CO<sub>2</sub> transportation infrastructure, as it will assist in the delivery of industrial decarbonisation in accordance with the emerging dNPS EN-1, as CCUS is identified as a mechanism of achieving decarbonisation targets in dNPS EN-1.
- 4.4.24. Part 3 of dNPS EN-1 establishes the urgent need for new nationally significant energy infrastructure projects and sets out the SoS should give substantial weight to considerations of need, whilst not being required to consider separately the specific contribution of any individual project to

satisfying the need established in the NPS (paragraph 3.2.6). The Applicant further considers the Proposed Development to align with the urgency referred to in dNPS EN-1, as it would have the potential to capture up to 10MtCO<sub>2</sub> per year by the early 2030s.

- 4.4.25. Section 3.2 of dNPS EN-1 confirms that the SoS should assess all applications for development consent covered by the energy NPSs on the basis that the government has demonstrated that there is a need for those types of infrastructure and notes the SoS should assess all applications for development consent for the types of infrastructure covered by dNPS EN-1 on the basis that the government has demonstrated that there is an urgent need for those types of infrastructure (paragraph 3.2.5).
- 4.4.26. Section 3.5 establishes the need for new nationally significant CCUS, with paragraph 3.5.1 recognising: *"There is an urgent need for new carbon capture and storage (CCS) infrastructure to support the transition to a net zero economy."* dNPS EN-1 states *"CCS infrastructure will also be needed to capture and store CO<sub>2</sub> from hydrogen production from natural gas, industrial processes, the use of bioenergy (BECCS) and from the air (DACCS). CCS infrastructure could be new or repurposed infrastructure"* (paragraph 3.5.2), whilst paragraph 3.5.5 states: *"The UK has one of the largest potential CO<sub>2</sub> storage capacities in Europe, with an estimated 78 billion tonnes of CO<sub>2</sub> storage capacity under the seabed of the UKCS"* and paragraph 3.5.6 states: *"New onshore CO<sub>2</sub> pipelines over 16.093 kilometres in length are within scope of this NPS."*
- 4.4.27. The Applicant considers dNPS EN-1 to be clear at paragraph 3.5.1 that it is the Government's intention to expand the reach of the overarching policy to demonstrate its support and need for onshore CO<sub>2</sub> pipelines, such as the Proposed Development. It considers this to be fundamental to the Proposed Development, which will capture, transport and store CO<sub>2</sub>.
- 4.4.28. The Applicant points to a number of locational advantages, which it considers are significant, in relation to the Proposed Development that include:
- its proximity to a number of existing industrial emitters around Ince and Stanlow Manufacturing Complex;
  - the repurposing of existing assets that will enable the delivery of significant CO<sub>2</sub> capture and storage to be realised.
  - North Wales and North-West region are ideally located from a geological perspective given their proximity to current gas reservoir facilities in Liverpool Bay.
- 4.4.29. The Applicant notes paragraph 3.5.8 of dNPS EN-1 acknowledges that there do not appear to be any realistic alternatives to new CCS infrastructure for delivering Net Zero by 2050, whilst Section 3.5 recognises the importance of new CCS infrastructure stating it *"...will be needed to ensure the transition to a net zero economy"*. However, it also stresses *"It is not the role of the planning system to deliver or limit specific amounts of CCS infrastructure covered by this NPS"* (paragraph 3.5.8 of dNPS EN-1).

- 4.4.30. As such the Applicant argues its Proposed Development is well positioned to help the region and UK meet its energy objectives and contribute towards the transition to a Net Zero economy. It considers the Proposed Development will enable the benefits of CCS infrastructure to be delivered cost effectively at scale, rapidly unlocking substantial carbon savings at a time when the climate crisis needs immediate action.
- 4.4.31. It also highlights the dNPS EN-1 also intended to highlight the shift in approach between the adopted and emerging NPS's, specifically with regard to drawing out a focus on the delivery of CCUS and achieving Net Zero targets.

## **NPS EN-4**

- 4.4.32. NPS EN-4 is relevant as the Proposed Development will be transporting CO<sub>2</sub> utilising a supply pipeline. The Applicant states the pipeline is an NSIP and this NPS indicates *"The infrastructure covered by this NPS is the nationally significant infrastructure caught by the relevant Planning Act thresholds (sections 17–21 of the Planning Act 2008), as follows: ...iv) Pipelines over 16.093km (10 miles) long which would otherwise require consent under s.1 of the Pipe-lines Act 1962 together with diversions to such pipelines regardless of length. These pipelines are referred to in this NPS as cross-country pipelines."* (paragraph 1.8.1 iv).
- 4.4.33. Irrespective of the above, paragraph 1.8.2 notes *"Pipelines which meet the Planning Act threshold at 1.8.1 (iv) could be carrying different types of gas, fuel or chemicals..."* but clearly states NPS EN-4 *"...only covers those nationally significant infrastructure pipelines which transport natural gas or oil."* This is repeated at paragraph 2.7.1, which states *"types of gas supply infrastructure and gas pipelines covered by this NPS are natural gas facilities."* However, paragraph 1.8.2 also states *"...information in this NPS may be useful in identifying impacts to be considered in applications for pipelines intended to transport other substances."*
- 4.4.34. Largely NPS EN-4 seeks to provide additional technology specific support to NPS EN-1, whilst not seeking to repeat its content. Indeed, paragraph 1.3.1 clearly establishes the relationship between the two NPSs. That said NPS EN-4 does retain the same fundamental targets such as establishing the need and urgency for new energy infrastructure to be consented and built with the objective of contributing to a secure, diverse and affordable energy supply and supporting the Government's policies on sustainable development, in particular by mitigating and adapting to climate change.
- 4.4.35. NPS EN-4 states, at Part 1, that the efficient import, storage, and transmission of natural gas is crucial to meeting the UK energy needs during the transition to a low carbon economy (paragraph 1.1.1). It also notes the national objectives relating to security of supply cannot be achieved without enabling investment in new infrastructure. Additionally, paragraph 1.1.4 refers to clean hydrogen and talks about the infrastructure that supports it, such as the Proposed Development, which will be needed to help transition our energy system to Net-Zero by 2050, with the



potential to help decarbonise vital UK industry sectors and provide flexible deployment across heat, power and transport.

- 4.4.36. Part 2 of NPS EN-4 deals with assessment and technology-specific information, including consideration of climate change adaptation and good design. It outlines key technology-specific considerations for gas pipelines, including the proximity to sensitive land uses (eg, residential development and schools) when planning routes; pipeline safety; noise and vibration; biodiversity; landscape and visual; water quality and resources; and soils and geology. These key technology-specific considerations for gas pipelines, as outlined above, are considered by the Applicant to be important and relevant considerations in the assessment of this Proposed Development.

### **dNPS EN-4**

- 4.4.37. Turning to the dNPS EN-4, the Applicant highlights that pipelines could be carrying different types of gas but that the NPS only has effect for those nationally significant infrastructure pipelines which transport natural gas or oil. However, it also points out while the guidance in the NPS does not have effect for CCS infrastructure, it may contain information that is important and relevant to the SoS's decision on applications for CCS infrastructure (paragraph 1.6.6). As such it considers there may still be some important and relevant considerations for the SoS to use in their decision making in relation to this dNPS.

### **CONCLUSIONS ON NPS POLICY**

- 4.4.38. Taking all relevant documents and policies into account, the ExA conclude:
- no instances of non-compliance with NPSs or draft NPSs were identified by IPs;
  - whilst the Proposed Development falls for consideration under s105 of the PA2008 the NPSs and emerging dNPSs are clearly important and relevant considerations and assist in establishing the need for the Proposed Development;
  - the Proposed Development conforms to high-level policy in NPS EN-1, and NPS EN-4 and the emerging dNPSs; and
  - the compliance of the Proposed Development has been examined against policy detail and tests applicable to individual planning issues as set out in relevant NPS and emerging dNPS paragraphs, and this analysis is carried out in Chapter 5 below.
- 4.4.39. It should be noted revised dNPSs were published in November 2023. However, as publication was after the closure of the Examination the revised dNPSs (November 2023) have not been considered by the ExA. For clarity the ExA has considered the March 2023 versions of the dNPSs, where they were considered relevant and important to the Proposed Development.

## **4.5. CONFORMITY WITH THE MARINE POLICY STATEMENT AND MARINE PLANS**

- 4.5.1. As a cross boarder submission, running between Wales and England, consideration has been given to the impact of the Proposed Development regarding both Welsh and English waters. However, the only activity being undertaken within a marine licensable area that requires a marine licence is the River Dee (Afon Dyfrdwy) crossing that falls within Wales, with all other activities in this marine licensable area being eligible for marine licence exemptions.
- 4.5.2. As such the River Dee (Afon Dyfrdwy) crossing would require a marine licence from NRW under the Marine and Coastal Access Act 2009. The dDCO therefore does not contain powers or controls which sit within the Marine Licencing regime.
- 4.5.3. The Applicant's document entitled 'Other Consents and Licences' [REP7-028] sets out the marine licence was submitted on 1 September 2023 and no further update in relation to this matter was provided prior to the close of the Examination. However, any DCO would only be implementable subject to NRW's grant of an effective marine licence(s) and be subject to compliance with the terms of any such licence(s).

## **4.6. CONFORMITY WITH DEVELOPMENT PLANS**

- 4.6.1. Where applicable, the conformity with relevant Development Plan policies is considered in Chapters 5 and 7 of this report. It should be noted that FCC and CWCC in most respects did not raise any specific concerns towards development plan policy compliance during the Examination period.

## **4.7. APPLICATION OF OTHER POLICIES**

- 4.7.1. Beyond the Development Plan policies (including regard to emerging Development Plan policies) and national policy there are not considered to be any other policies relevant to the examination.

## **4.8. THE PRINCIPLE OF THE DEVELOPMENT**

### **Authorised Development/ Associated Development**

- 4.8.1. With regard to 'Authorised Development' and 'Associated Development', the ExA notes the Applicant's ES Chapter 2 (The Project) [REP7-035] considers the proposed pipeline, together with the AGIs and BVSs form the Proposed Development (ie the Authorised Development) and are part of its NSIP submission. However, this Chapter of the ES also alludes to the Welsh Government not agreeing with that view. Despite this statement the ExA also notes the Welsh Government has not made any submissions to the Examination confirming that position.
- 4.8.2. In the ExA's First written questions (ExQ1) [PD-013] (Welsh)/ [PD-014] (English) at Q1.19.1, clarification was sought from both the Welsh Government and FCC in regard to this matter. No response was received

from the Welsh Government in regard to the ExA's question, but FCC stated it agreed "...with the applicant's view that the BSV's and AGI's are not considered to be 'Associated Development' because it is considered that they fall within the definition of a 'pipeline' in Section 65 of the Pipe-lines Act 1962."

- 4.8.3. The ExA is satisfied that the Proposed Development, in regard to the pipeline, AGIs, BVSs and related infrastructure constitutes 'Authorised Development' as an NSIP within s14 and s21 of the PA2008, as the Proposed Development is a cross-country pipeline as defined in s235 of the PA2008, which confirms it has the same meaning as in the Pipe Lines Act 1962 (PLA) s66.
- 4.8.4. The PLA s66(1) provides that 'Cross-country pipeline' means 'pipeline' whose length exceeds 16.093 kilometres (km). The Authorised Development would include a new build pipeline of 36km and repurposing of an existing natural gas pipeline of 24km. The overall Proposed Development would be some 60km in length.
- 4.8.5. The PLA is clear at s65 "*In this Act "pipe-line" (except where the context otherwise requires) means a pipe (together with any apparatus and works associated therewith), or system of pipes (together with any apparatus and works associated therewith), for the conveyance of anything other than air, water, water vapour or steam...*". Whilst there is a list of excluded pipelines within s65(1) none are relevant to the Proposed Development. Section 65(2) of the PLA lists apparatus and works associated with a pipe, or system of pipes.
- 4.8.6. Bearing s65 in mind, the ExA accept this includes apparatus along the pipeline such as AGIs and BVSs, being works annexed to or incorporated in the pipeline. Such works are necessary to construct and operate the Authorised Development and this includes construction and operational access, drainage, and landscaping for the AGIs and BVSs.
- 4.8.7. In reaching this view, the ExA has had regard to the restriction on the inclusion of 'Associated Development' in Wales, as well as other DCOs including the Swansea Bay Tidal Lagoon DCO. It is satisfied that the Authorised Development is an NSIP and that neither the proposed pipeline, the AGIs, BVSs or other aspects of the Proposed Development constitute 'Associated Development'.

### **The Applicant's Need Case**

- 4.8.8. The Applicant's Need Case is assessed by the ExA in Chapter 5, Section 5.2 of this report.

## **4.9. CONSIDERATION OF ALTERNATIVES**

- 4.9.1. NPS EN-1 and NPS EN-4 do not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option. However, under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, applicants are required to include within its ES information about the main alternatives

studied and include an indication of the main reasons for the choice of site, considering the environmental, social, and economic effects including where relevant commercial feasibility. Furthermore, paragraph 4.4.3 of NPS EN-1 advises that the consideration of alternatives should be carried out in a proportionate manner.

- 4.9.2. Accordingly, the ExA has adopted the approach advocated in NPS EN-1 paragraph 4.4.3 and considers these matters in the main planning issues section of this report, found within Chapter 5, especially given the breadth and intricacies involved in assessing alternatives to the Proposed Development, as well as the pipeline route alongside overlapping need case considerations.

## **4.10. ENVIRONMENTAL IMPACT ASSESSMENT**

- 4.10.1. The Applicant has submitted an ES to accompany the application. At the beginning of the Examination this comprised of document reference numbers [APP-051] rising consecutively to [APP-245]. The ES Chapters and related documents were subsequently updated at various DLs, including updates following the ExA's written questions (First Written Questions [PD-014], Second Written Questions [PD-022] and Third Written Questions [PD-027]). A consolidated ES was submitted at DL4, with final versions of the ES re-submitted into the Examination at DL7 and DL8.

- 4.10.2. There were also other updates to components of the ES information during the Examination, which were given due consideration by the ExA throughout the Examination. The Applicant's submitted Guide to the Application [REP7-003], along with an Application Document Tracker [REP9-002] updated incrementally to DL9, provides a list of all the relevant document changes applicable within the Examination. Additionally, paragraph 1.5.6 above provides a detailed list of the ES references in the examination library for the final ES documents entered into the Examination.

## **4.11. HABITATS REGULATIONS ASSESSMENT**

- 4.11.1. Issues pertaining to HRA are all considered in Chapter 6 of this report.

## **5. FINDINGS AND CONCLUSIONS IN RELATION TO THE PLANNING ISSUES**

### **5.1. INTRODUCTION**

- 5.1.1. This chapter examines the main planning related issues raised during the Examination. Chapter 5 is structured based on the Examining Authority's (ExA's) Initial Assessment of Principal Issues, and the Examination issues which were subsequently raised. For conciseness the ExA has condensed the issues within the various main topic headings applicable where it is appropriate to do so.
- 5.1.2. Subheadings are also included here by the ExA of: Policy; The Applicant's Case; Interested Parties (IP) Views; Examination (meaning matters considered); and the ExA's Conclusion, per each main topic discussed.
- 5.1.3. As already confirmed in Chapter 3, the ExA has considered relevant dNPS that were in place up until the close of the Examination. However, it is aware that the SoS released revised dNPS's on 22 November 2023, including dNPS EN-1 and dNPS EN-4. These revised dNPSs have not been considered in this Report as they were published following the closure of the Examination and are only noted after the final conclusions are drawn together at the end of this report.

### **5.2. THE NEED CASE FOR THE DEVELOPMENT POLICY**

- 5.2.1. Whilst the National Policy Statements (NPS) may not have effect in relation to developments determined under Section (s) 105 of the Planning Act 2008, matters incorporated within them are nonetheless likely to constitute important and relevant considerations. The NPSs are a material consideration in Wales and England. Therefore, where applicable the ExA has had full regard to those in tandem with prevailing UK Strategy.
- 5.2.2. The ExA already has identified a list of legislation policies and strategy in Chapter 3 of this recommendation as a reference point, and some ExA NPS commentary is made within Chapter 4.
- 5.2.3. The ExA acknowledges NPS EN-1 explicitly recognises the Government's commitment to increasing the use of renewable energy and investment in low carbon energy generation to ensure a secure electricity market in the future. The NPS states that the Carbon Dioxide (CO<sub>2</sub>) emissions of individual applications do not need to be benchmarked against UK carbon budgets, and CO<sub>2</sub> emissions are not a reason to prevent project consent.
- 5.2.4. Furthermore, Draft NPS EN-1 (dNPS EN-1) referred to Government developing business models to incentivise the deployment of Carbon, Capture, Utilisation and Storage (CCUS) facilities and hydrogen in the UK. In particular, Para 2.4.5 refers to the UK Emissions Trading Scheme;

Carbon Price Support; and Emissions Performance Standard models as potential pathways to leverage the decarbonation of the power sector.

5.2.5. dNPS EN-1 in wider perspective also talks about the transformational approach to tackle long-term problems to deliver growth that creates high-quality jobs across the UK and makes the most of the strengths of the Union. Para 2.3.8 notes:-

*"However, this transformation cannot be instantaneous. The use of unabated natural gas and crude oil fuels for heating, cooking, electricity and transport, and the production of many everyday essentials like medicines, plastics, cosmetics, and household appliances, will still be needed during the transition to a net zero economy. This will enable secure, reliable, and affordable supplies of energy as we develop the means to address the CO<sub>2</sub> and other greenhouse gases associated with their use, including the development and deployment of low carbon alternatives. The UK's oil and gas sector recognises the demand for oil and gas will be much reduced in but also recognise the key role that it can play in helping the UK meet its net zero commitment. Clear action will need to be taken to build on the proven capabilities within the sector to lead in new and emerging energy technologies."*

5.2.6. Aside from existing and dNPS provision applicable as a material consideration within England and Wales, the ExA in assessing overarching need arguments for administrative land areas in Wales has given high level consideration to:-

- Planning Policy Wales (PPW) which sets out the land use planning policies of the Welsh Government and the supporting series of Technical Advice Notes (TANs), Ministerial TANs, Welsh Government Circulars, and policy clarification letters, which together with PPW provide the national planning policy framework for Wales.
- The ExA understands that the primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental, and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 (WBFGA) and other key legislation such as the Environment (Wales) Act 2016 (which established carbon targets) and other resultant duties such as the Socio-economic Duty.
- PPW and the National Development Framework (published as Future Wales – the National Plan 2040) set out how the planning system at a national, regional, and local level can assist in delivering these requirements through Strategic Development Plans and Local Development Plans (LDP).

5.2.7. For administrative areas within England the advice of the National Planning Policy Framework (NPPF) and LDP for Flintshire County Council (FCC) and Cheshire West and Chester Borough Council (CWCC) also feature in assessing need case merits. In essence all sustainability goal provisions within those Plans are accepted to be broadly aligned with supporting the principle of dealing with carbon emissions.

5.2.8. The ExA has also had regard to some of the background information contained in the Applicant's Environmental Statement (ES) Chapter 10 Greenhouse Gases Rev C [REP7-048]. In particular Section 10.2 of the document which refers to climate resilience related legislation and the supporting policy framework has been referred to by the ExA.

## **THE APPLICANT'S CASE**

5.2.9. The Applicant's overall need case is primarily made in examination document [APP-049] but ES Chapter 10 [REP7-048] is also relevant. It argues that the UK must have adequate energy generation and industrial infrastructure in place to achieve the requirements of the Climate Change Act 2008 (as amended). This Act is the primary legislative driver to deliver the UK's commitments to achieving decarbonisation and related overarching sustainable development goals. It also has interrelated components linked to extremely important socio-economic factors which the ExA considers in Section 5.12 of this Chapter.

5.2.10. The Climate Change Act 2008 (as amended) put an obligation on the UK Government to set carbon budgets covering a five-year period. The UK's sixth (and latest) carbon budget was published in 2021 and covers the period 2033-2037. It committed to a 78% reduction in emissions on 1990 levels and is 760,000,000 tonnes lower than the fifth carbon budget (HM Government, 2021).

5.2.11. In tandem, UK Government released its "Net Zero Strategy: Build Back Greener" in October 2021, which provided detail as to how the UK will meet its sixth carbon budget. The strategy discusses reducing emissions across the economy including in power, fuel supply and hydrogen, industry, heat and buildings, transport, natural resources, waste, and Greenhouse Gas (GHG) removals.

5.2.12. Carbon Capture and Storage (CCS) systems, which the Proposed Development would be part of, are a suite of technologies that involves the capture of CO<sub>2</sub> from large point sources including power generation and industrial facilities. The case made is that new pipeline infrastructure can considerably contribute to decarbonising industry, providing flexible power generation, and other hard to abate sectors by capturing the CO<sub>2</sub> which results from these processes.

5.2.13. The Proposed Development would transport CO<sub>2</sub> from GHG emitting industries and the production of low carbon hydrogen, contributing to the reduction of CO<sub>2</sub> to meet the Government's commitment to meet the UK's legally binding target to cut GHG emissions (now committed by the UK to achieve a 100% reduction in emissions by 2050).

5.2.14. Furthermore, the Proposed Development enables wider elements of the 'HyNet Project' (as a whole) to be developed which includes the production of low carbon hydrogen and a hydrogen distribution network. Without the CO<sub>2</sub> pipeline, the wider HyNet Project, including associated cluster developments anticipated to act as economic hubs for green technology jobs would not be able to be successfully delivered.

- 5.2.15. The case made is that reusing existing natural gas infrastructure for CO<sub>2</sub> transport and storage minimises the capital cost of the Project. This is because usually, operators and Government both share the costs of decommissioning oil and gas assets. By repurposing the depleted gas reservoirs, the Project negates the need to decommission them, significantly reducing the burden on UK taxpayers.
- 5.2.16. Location wise, the Cheshire salt basin is already used extensively for natural gas storage and is suitable and available for storage related to the Proposed Development. The wider HyNet Project involves the production, distribution, storage and end-use of material quantities of low carbon hydrogen. This allows cost-effective decarbonisation of the combustion emissions associated with industrial manufacturing processes, and the ability to store hydrogen at scale allows flexible power generation to be decarbonised for periods when renewable energy production is insufficient.
- 5.2.17. The low carbon hydrogen elements of the Project are subject to separate consenting processes, but are reliant on the CO<sub>2</sub> pipeline, without which low carbon hydrogen cannot be produced at sufficient scale to materially decarbonise industrial emissions across the region.
- 5.2.18. Additionally, a UK Government study referenced in the examination material to have found that the Hamilton gas field in Liverpool Bay is the UK's most suitable, safe site for CO<sub>2</sub> storage (Energy Technologies Institute, 2016) and in the CCS Deployment Pathway report by the Government it includes the East Irish Sea as a key location for the potential opportunity for oil and gas infrastructure re-use (HM Government, 2018).
- 5.2.19. Thus, it is argued strongly by the Applicant that the use of CCS would be a pivotal mechanism to support the UK transition to a low carbon economy, to meet the Net-Zero target and help decarbonise industrial clusters in the North-West of England and North Wales.

## **INTERESTED PARTY VIEWS**

- 5.2.20. Both FCC and CWCC were generally supportive of the Applicant's need case for the Proposed Development throughout the Examination which extended to broader socio-economic implications. In relation to dealing with climate change interests, they accepted carbon emissions would be prevented from entering the atmosphere. Both Councils broadly accepted that the HyNet Project would contribute to carbon reduction and, in turn aid the UK in its target to be carbon Net Zero by 2050.
- 5.2.21. This included regard to the HyNet Project being an accepted potential mechanism, to relieve strain on the national electricity grid. This was based on the understanding that a proportion of the hydrogen produced (by the Project as a whole) would be used in energy generation to supply domestic buildings.
- 5.2.22. The host Councils recognised that the proportion of the area covered by the HyNet network is largely industrial, currently emitting large amounts



of carbon emissions. If a proportion of those emissions can be captured this would be beneficial, not just for the immediate areas in which the hydrogen production plant is proposed in Cheshire, but also for Flintshire and beyond.

- 5.2.23. Furthermore, should the Proposed Development for a CO<sub>2</sub> pipeline be consented, this would provide opportunities in the future (subject to separate consenting) for large CO<sub>2</sub> emitting industries to capture their carbon and connect and 'tie-in' to the proposed HyNet CO<sub>2</sub> pipeline for offshore storage. On that basis, FCC and CWCC broadly agreed that the proposal would deliver clear and substantial benefits on a local, regional, and national level.
- 5.2.24. However, wider IP context did indicate opposition to the Applicant's need case. This included (but not limited to) detailed submissions from Carolyn Thomas MS (Member of Senedd) [REP7-320] who made objections that the basis of the Proposed Development would undermine sustainability goals relating to:
- provision of the WBFGA;
  - highway infrastructure provision;
  - flood risk;
  - leakage risks;
  - community safety; as well as inadequate economic impact.
- 5.2.25. Objections from Liverpool Friends of the Earth (LFoE) via [CR1RR-007] and [REP7-315] and Nick Crosby via [CR1RR-008] and [REP7-324], both with Open Floor Hearing involvement, also referred to: public safety/ environmental concerns; the unproven nature of the technology pursued; upstream carbon assessment issues being detrimental and contravening cumulative assessment; the Proposed Development associated risks; and doubtful mitigation, amongst other matters.

## **EXAMINATION**

- 5.2.26. The ExA during the Examination was conscious the Applicant's need case is made under s105 of the Planning Act 2008 which requires the Secretary of State (SoS) to determine applications having regard to any matters which the SoS thinks are both "important and relevant".
- 5.2.27. Acknowledging updates to NPSs are still in draft format the ExA largely tested the broad need justifications through the ExA's Written Questions (ExQ). There were three rounds of ExQs (ExA's First Written Questions (ExQ1) [PD-014], ExA's Second Written Questions (ExQ2) [PD-022] and the ExA's Third Written Questions (ExQ3) [PD-027]). The broad need justification was primarily tested in ExQ1 [PD-014] and during Issue Specific Hearing (ISH)<sup>1</sup>. The ExA also explored the broad need justification through ExQ2 [PD-022] and ExQ3 [PD-027]. The ExA has also considered ES Appendix B - Potential Economic Impacts of the HyNet North-West Project [REP1-046].
- 5.2.28. It was noted by the ExA that [REP7-038] highlighted the necessity of the Proposed Development for the decarbonisation of emitting industries and

achieving the UK's pathway to Net Zero. The ExA asked the Applicant to further explain the overall need case for the Proposed Development relative to climate change considerations, current knowledge and natural (or other) forms of carbon capture/ sequestration currently available or those emerging.

- 5.2.29. During ISH1 [EV-008] to [EV-010] the ExA asked the Applicant various questions on whether other alternatives contrary to the findings of the ES were feasible. This included consideration of a 'do-nothing' scenario. The ExA particularly focused on whether any changes stemming from innovation would give rise to any other feasible option to providing the climate change benefits centred on in the Applicant's need justification.
- 5.2.30. The Applicant's written question responses at [REP1-044], [REP5-025] and [REP8-036] included further explanation of the Proposed Development's need case merits.
- 5.2.31. Bearing in mind all the Examination material submitted, including the oral and written responses received to examination queries, the ExA considered that the overarching need case put forward by the Applicant was well made, and robust.
- 5.2.32. Moreover, nothing convincing was evidenced in relation to the need argument which conflicts with prevailing NPS provision (or the emerging dNPS), or UK Strategy, for the ExA to take a contrary view. Indeed, local policy provision triggered was also demonstrated as being aligned with supporting proposals that seek to alleviate climate change problems – which the Proposed Development would be consistent with.
- 5.2.33. As a material consideration for England and Wales the ExA acknowledges that the current NPS EN-1 reflects policy dating back to 2011, which anticipated the use of CCS primarily for the production of low carbon electricity. For example, paragraph 3.6.4 of NPS EN-1 states:
- *"CCS has the potential to reduce carbon emissions by up to 90%..."*
  - *"The complete chain of CCS has yet to be demonstrated at commercial scale..."* and
  - *"There is therefore uncertainty about the future deployment of CCS in the economy, which in the Government's view cannot be resolved without first demonstrating CCS at commercial scale".*
- 5.2.34. Yet more recently, dNPS EN-1 at paragraph 2.4.4 gives a more up to date Government position on the strategic role of CCS. It states, that *"the Government is developing business models to incentivise the deployment of CCUS facilities and hydrogen in the UK"*. Draft NPS EN-1 also states at paragraph 3.2.11, *"there is an urgent need for all types of low carbon hydrogen infrastructure to allow hydrogen to play its role in the transition to net zero"*.
- 5.2.35. Specifically for Wales, in March 2021 Senedd Cymru approved a net zero target for 2050. Wales also has interim targets for 2030 and 2040, and a series of 5-year carbon budgets. The targets and carbon budgets form

Wales's statutory framework of which Environment (Wales) Act 2016 legislation is part of.

- 5.2.36. Moreover, there is substantial wider UK Strategy support evidenced by the Applicant's submissions in [APP-049] applicable to both England and Wales advocating the use of CCS for transition to a low carbon UK economy, to meet the Net-Zero target and help decarbonise industrial clusters in the North-West of England and North Wales. This includes:
- Clean Growth – The UK CCUS Deployment Pathway (November 2018);
  - CCUS supply chains: a roadmap to maximise the UK's potential (May 2021);
  - 2021 Progress Report to Parliament (June 2021); and
  - The Growth Plan 2022 (September 2022).
- 5.2.37. The Proposed Development would enable the production of low carbon hydrogen at Stanlow by transporting the produced CO<sub>2</sub> to be stored, which enables low carbon hydrogen to be used in the transition to Net Zero.
- 5.2.38. Therefore, the above Strategies as well as the current direction of travel of relevant dNPS's and prevailing UK strategy combined in Chapter 3 and Chapter 4 of this recommendation report all indicate to the ExA the Applicant's consideration of Alternatives is proportionate. Moreover, the full suite of prevailing UK Strategy provision triggered is acknowledged by the ExA to carry significant weight.
- 5.2.39. In terms of wider socio-economic benefits which are interrelated to the need case, the ExA agrees that the Proposed Development would enable the delivery of significant socio-economic benefits UK wide. This is documented and concluded upon extensively in Section 5.12 of this Chapter.
- 5.2.40. The ExA recognises that the primary objective of PPW is to contribute towards the delivery of sustainable development and in doing so improving the social, economic, environmental, and cultural well-being of Wales, as required by the WBFGA and other key legislation and resultant duties such as the Socio-economic Duty. The ExA agrees the overarching need case made for the Proposed Development would be consistent with those broad objectives.
- 5.2.41. Moreover, the content of CWCC's Local Impact Report (LIR) [REP1A-002], together with its Appendix [REP1A-003]; and FCC's LIR [REP1A-005] and its Appendix [REP1A-006] are both broadly supportive of the Applicant's overarching need case.

## **EXA CONCLUSION**

- 5.2.42. The ExA notes the NSPs, the emerging dNPS, as well as up to date UK strategy support for CCS. All of these documents are considered to be important and relevant matters in the consideration of the need case for the Proposed Development. The ExA finds there is no high-level strategic

aspect of PPW which counts against the broad principle of supporting the Proposed Development having consideration to TANs, Minerals Technical Advice Notes 1 and 2, Welsh Government Circulars, and policy clarification letters. For associated areas in England the ExA is content that the range of climate change related policy/ strategy has been had regard to. The broad need case for the development accords with all relevant local policies and strategies triggered, including those referenced within the two LIRs.

- 5.2.43. The ExA concurs that the planned timing of the Proposed Development would help the Government and Welsh Government to meet national carbon targets. It also agrees the Proposed Development would lead to a UK wide decarbonised economy far more quickly, than would be the case without the Proposed Development.
- 5.2.44. Accordingly, the ExA finds there is a compelling overarching need case in favour of supporting CCS related development in both England and Wales which supports climate change interests. That said, the consideration of alternatives for the Proposed Development is a further overlapping issue. Therefore, other technical aspects included in the Applicant's ES Chapter 4 Consideration of Alternatives [REP7-038] examined by the ExA should be considered by the SoS before concluding on the need arguments made. The ExA gives its views on the matter to the SoS as set out in 5.3.

### **5.3. ASSESSMENT OF ALTERNATIVES POLICY**

- 5.3.1. Paragraph 4.4.1 of NPS EN-1 identifies as in any planning case, the relevance or otherwise to the decision-making process of the existence (or alleged existence) of alternatives to the Proposed Development is in the first instance a matter of law, detailed guidance on which falls outside the scope of this NPS. From a policy perspective this NPS does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option. Draft updates to the NPSs give similar advice.
- 5.3.2. Therefore, rather than a generic standalone UK policy requirement or policy equivalent in Wales or England per se, the ExA notes the content of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 are applicable. These regulations state that an ES should include *'a description of the reasonable alternatives studied by the Applicant, which are relevant to the Proposed Development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment'*.
- 5.3.3. In considering all alternatives for the Proposed Development the ExA has considered all LDP environmental policies for FCC and CWCC listed in Chapter 3 of this recommendation. In doing so the ExA recognises that FCC LDP EN-11 (green wedges) and CWC LDP STRAT9 (green belt and countryside) both are important local policy aspects of any decision

informing the pipeline route selection, as are all other applicable environmental impacts. To a lesser extent CWC LDP STRAT3 (Chester) is also relevant owing to it detailing settlement location areas.

- 5.3.4. Therefore, due to the issues triggered in Wales and England, some generic aspects of NPS EN-1 are relevant to mention at this point in that paragraph 5.10.17 highlights that when Nationally Significant Infrastructure Project (NSIP) development is located in the Green Belt, energy infrastructure projects are likely to comprise 'inappropriate development'.
- 5.3.5. Inappropriate development is by definition harmful to the Green Belt and the general planning policy presumption against it applies with equal force in relation to major energy infrastructure projects. As a result, the ExA as part of the alternatives considered needs to assess whether there are very special circumstances to justify inappropriate development. Very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is outweighed by other considerations. In view of the presumption against inappropriate development, the ExA does attach very great weight to any harm to the Green Belt. However, it is also reflected in NPS EN-1 that below ground linear infrastructure (as in the case here), can have a limited or indeed no impact on the fundamental purposes of Green Belt designation.
- 5.3.6. Additionally, NPS EN-1 paragraph 5.10.18 notes that in Wales, 'green wedges' may be designated locally. These enjoy the same protection as Green Belt (in England) in Wales and the ExA should adopt a similar approach.
- 5.3.7. However, Green Wedges do not convey the same level of permanence of a Green Belt and should be reviewed by the local authority as part of the development plan review process. As with Green Belt, there is a presumption against inappropriate development. Therefore, the ExA in its overall assessment is required to assess whether there are 'very exceptional' circumstances to justify any proposed inappropriate development in Wales, relative to PPW and local policy.

## **THE APPLICANT'S CASE**

- 5.3.8. The Applicant's Assessment of Alternatives is made in ES Chapter 4 (Consideration of Alternatives) [REP7-038] and provides the full extent of alternatives considered by the Applicant, including during the construction phases of the Proposed Development. This ES Chapter is supported by ES Figures 4.17 - Construction compound alternatives at Stanlow Rev A [REP7-208]; 4.18 - Construction compound alternatives at Northop Hall Rev A [REP7-209]; and 4.19 - Additional Northop Hall Above Ground Installation (AGI) Options Rev B [REP7-210].
- 5.3.9. At a strategic level the Applicant starts from a 'do nothing' baseline position in its ES. The Applicant contends doing nothing is not an option if the UK is to meet its Net Zero 2050 target. As this would mean that

carbon emissions from industrial sources in North Wales and the North-West of England region would remain unabated.

- 5.3.10. In developing the proposed pipeline route corridor options, the Applicant refers the ExA to five guiding principles to inform its selection process:
1. To avoid, minimise and manage impacts upon the environment and local amenity;
  2. To ensure the transportation of the CO<sub>2</sub> is undertaken safely and securely;
  3. To optimise the potential socio-economic benefits within the region;
  4. To be technically viable and constructible with minimum disruption; and
  5. To be cost-effective.
- 5.3.11. A 3-stage process has been evidenced by the Applicant to find a suitable pipeline route: Stage 1: Development and appraisal of strategic corridors; Stage 2: Development and appraisal of route options; and Stage 3: Refinement of preferred route option and siting.
- 5.3.12. The pipeline routing was considered in two sections: Firstly, the Ince AGI to Stanlow AGI Pipeline (20"); and secondly Stanlow AGI to Flint AGI Pipeline (36"). A Stage 1 appraisal identified four strategic corridors for the newbuild 36" pipeline.
- 5.3.13. Due to its shorter length and limited corridor options, the newbuild 20" pipeline was not subject to a Stage 1 appraisal by the Applicant. The first of the four defined strategic corridors were subsequently labelled the 'Core' corridor by the Applicant. This is the broadest of the four corridors on account of being the least geographically constrained. The core corridor runs approximately 13 kilometres (km) between Stanlow and the A548 Sealand Road, extending approximately 1km into Wales.
- 5.3.14. The strategic corridors identified by the Applicant were then split into three more distinct corridors:
- A Northern corridor: Measuring approximately 8.5km in length, the Northern corridor traversed the northern perimeter of the Deeside Industrial Estate;
  - A Central corridor: Measuring approximately 7.5km in length, the Central corridor ran through an area of open fields adjacent to Garden City and the Airfield Industrial Estate before heading northwards along the western side of the River Dee (Afon Dyfrdwy); and
  - A Southern corridor: Measuring approximately 15km in length, the Southern corridor arced south of Deeside, Queensferry and Connah's Quay.
- 5.3.15. Overall, the Southern corridor was taken as the preferred option for reasons including: the greatest opportunity to connect to other CO<sub>2</sub>

emitters, thereby achieving the greatest level of CO<sub>2</sub> reduction within the region; it was the least complex to build and safest route to construct on account of having fewer complex crossings; it was more likely to provide route options which have less direct impact upon international and national environmental designations (including the River Dee (Afon Dyfrdwy) Estuary); and it was likely to offer the most cost-effective solution, based on the fact it would be the least complex. The Core corridor in combination with the Southern corridor was subsequently taken forward to the Stage 2 Appraisal.

- 5.3.16. Following the conclusions of the Stage 2 Appraisal documented, the design of the pipeline both 20" and 36" (and associated infrastructure) and the infrastructure associated with the repurposing of the existing Flint Connection to PoA Terminal Pipeline were progressed as part of the Stage 3 process. In doing so, a 100m corridor was applied to the preferred route to enable more detailed consideration of specific planning, land use, environmental and social criteria and to identify engineering, cost and constructability issues equating to some thirty-five factors as mentioned in paragraph 4.5.21 of [REP7-038] in the Applicant's ES Chapter 4 (Consideration of Alternatives).

## **INTERESTED PARTY VIEWS**

- 5.3.17. There was broad consensus during the Examination from both FCC and CWCC that the actual pipeline route alternatives considered by the Applicant were properly explained. They generally took the view that the Applicant has made a reasonable assessment in setting out its options and why it made the choices it did.
- 5.3.18. Whilst the type of hydrogen production was referred to by IPs (some being more carbon intensive than others and some having a neutral carbon impact) the matter is not directly related to this Proposed Development and therefore is beyond the scope of the examination assessments.
- 5.3.19. However, submission [AS-064] from Mr Steven Gibbins (an Non-IP) did put forward some information to the ExA that the Applicant's chosen route was not necessarily the best option available. Other IPs also questioned whether other options should be pursued. The ExA has subsequently taken the basis of those arguments into account.

## **EXAMINATION**

- 5.3.20. In light of the information provided by the Applicant's ES and IP comments, the following 'types' of strategic alternatives were subject to Examination scrutiny and questions by the ExA:
1. Do nothing;
  2. Other potential alternative options; and
  3. Mitigation by design.
- 5.3.21. Various questions were posed by the ExA about the 'do nothing' alternative during Hearing interactions. Primarily questions extended to

acknowledging alternative modes of carbon capture using nature-based solutions or emerging innovation in industry, the pace of which is an unknown quantity.

- 5.3.22. Following questioning by the ExA, the do-nothing alternative was adequately evidenced during the Examination by the Applicant to be contrary to: the UK's goal to achieve NetZero carbon emissions by 2050; the Industrial Decarbonisation Strategy; the British Energy Security Strategy; and the UK Hydrogen Strategy. The ExA also considers the do-nothing scenario was an appropriate baseline for the Applicant's ES in light of IP representation.
- 5.3.23. The possibility of a shorter route to the north of Deeside Industrial Park to run parallel with the A548 referred to in [AS-064], made by Mr Steven Gibbins, was investigated through further questions by the ExA as it suggested that discounted route:
- does not pass close to residential areas and is therefore less likely to have an impact;
  - the route is through open countryside and easily accessible for construction from the A548;
  - the alternative route is around 7.2km shorter which would lead to significant cost savings; and
  - a shorter route minimises interference with the rights of private landowners.
- 5.3.24. The Applicant submitted various arguments (in writing and orally) to justify why such an option was discounted. These included the routing suggested by Mr Gibbins [AS-064] is analogous to the Northern strategic Corridor described in the ES Chapter 4 (Consideration of Alternatives) [REP7-038].
- 5.3.25. Moreover, the strategic corridor routing exercise (for all options) was limited to desktop investigations using publicly available resources such as: utility search records; historic landfill records; aerial photography; and included regard to environmental designations (eg, Site(s) of Special Scientific Interest (SSSI), Special Area(s) of Conservation (SAC), Special Protection Area(s), Ramsar site(s), Ancient Woodlands, Flood Zones (FZ)); and British Geological Survey information.
- 5.3.26. Such information provided a sufficient level of information for the route selection exercise. It was evidenced to the ExA that it was unrealistic for the Applicant to undertake further detailed surveys (such as intrusive Ground Investigation) along all strategic corridor options as the cost and time required would be prohibitive to project development.
- 5.3.27. Following the review of available data in 2021, the Applicant evidenced it considered that the Northern Corridor was not the preferable route and did not take it forward into statutory consultation. By extension, the route proposed by Mr Gibbins is argued by the Applicant to not qualify as a 'reasonable alternative', as many of the same considerations that applied to the Northern Strategic corridor would have apply to his



proposed route. The Applicant contends the best option has been put forward having regard to all IP commentary received.

5.3.28. As a separate wider point, it is also the case that much of the embedded mitigation within the design of the Proposed Development have arisen when applying: EIA legislation in broad terms; the implications of relevant Water Framework Directive (WFD) assessment [REP8-013]; the Applicant's 'Biodiversity Net Gain Strategy' [REP8-024]; and in the Applicant's 'Alltami Brook Crossing Options Appraisal' [REP3-039].

5.3.29. Alternatives considered within ES Chapter 4 (Consideration of Alternatives) [REP7-039] to avoid, reduce, and minimise impacts included:

- Pipeline routes.
- Pipeline designs.
- Pipeline crossings.
- AGIs alternative sites.
- Block Valve Stations (BVSs) alternative sites.
- Construction Compounds.

**Green Wedge/ Green Belt locations in the overall consideration of alternatives**

5.3.30. The Applicant's overall route selection has considered Green Wedge designation (in Wales) and Green Belt designation (in England) from local and national policy perspectives.

5.3.31. From a local policy perspective, Policy EN11 of the Flintshire LDP indicates that development within designated Green Wedges will only be permitted for specific uses, such as justified rural enterprise needs, essential facilities for outdoor sport and recreation, and other uses of land that maintain the openness of the Green Wedge.

5.3.32. Within CWCC's administrative area Policy STRAT 9 Green Belt and countryside indicates that the intrinsic character and beauty of the Cheshire countryside should be protected by restricting development to that which requires a countryside location and cannot be accommodated within identified settlements. Within the countryside the following types of development can be permitted:

- development that has an operational need for a countryside location such as for agricultural or forestry operations;
- replacement buildings;
- small scale and low impact rural/ farm diversification schemes appropriate to the site, location and setting of the area;
- the reuse of existing rural buildings, particularly for economic purposes, where buildings are of permanent construction and can be reused without major reconstruction;
- the expansion of existing buildings to facilitate the growth of established businesses proportionate to the nature and scale of the site and its setting.

- 5.3.33. In all of the above Policy STRAT 9 indicates that development must be of an appropriate scale and design to not harm the character of the countryside. The general extent of the North Cheshire Green Belt will be maintained. As further context, Policy 'STRAT 3 Chester' sets out the proposed release of Green Belt to meet the development needs of Chester.
- 5.3.34. In terms of above ground aspects of the Proposed Development, there would be one AGI (Ince) and two BVSs (Rock Bank and Mollington) sited within the Green Belt. Within FCC's administrative area, there would be one BVS at Aston Hill located within a Green Wedge.
- 5.3.35. The AGI at Ince and the BVSs are built structures essential to the operation of the Proposed Development. Due to their scale and nature, they would not preserve the openness of the Cheshire West and Chester Green Belt, nor the openness of the Green Wedge within Flintshire. The ExA agrees the above ground aspects of the Proposed Development would constitute 'inappropriate development' in local and national policy terms in those areas.
- 5.3.36. Furthermore, due to the linear nature of the pipeline route, the Applicant made the case that although the Proposed Development does pass through Cheshire Green Belt locations and Green Wedges within Flintshire this is to avoid settlements, and unnecessary conflicts with other developments.
- 5.3.37. Aside from the above ground aspects identified, the actual newbuild pipeline itself also cuts through Green Belt and Green Wedge locations. The ExA acknowledges that the below ground aspects of the Proposed Development constitute engineering operations, but ones with no realistic prospect of diminishing the openness levels of such locations. Therefore, it was the ExA's view that the newbuild pipeline component of the Proposed Development sits well within the limits of national policy for Wales and England for such designated areas.
- 5.3.38. Indeed, this approach is consistent with general advice for gas pipeline schemes as per paragraph 5.10.12 of NPS EN-1: "*An applicant may be able to demonstrate that a particular type of energy infrastructure, such as an underground pipeline, which, in Green Belt policy terms, may be considered as an "engineering operation" rather than a building is not in the circumstances of the application inappropriate development.*" The position taken by the ExA is that in the absence of any national policy conflict arising from TANs, (and other relevant Welsh national policy) the same notion can be applied for Green Wedge locations in Wales.
- 5.3.39. The ExA therefore accepted the below ground new build pipeline would not be inappropriate development in the Green Wedge and Green Belt. Nor the associated temporary construction works to it.
- 5.3.40. Thus, it remains the case that in assessing the inappropriate elements of the Proposed Development on the 'openness' of Green Belt and Green Wedge locations, the ExA is required to make a judgment on the level of

impact. Informing such a judgment, the ExA recognises that openness effects are capable of having both spatial and visual aspects linked to them. Therefore, the ExA discusses associated visual implications in the Landscape and Visual Section 5.7 of this report.

- 5.3.41. Whilst the Applicant accepts the above ground elements of the Proposed Development impact the open character of the Green Belt and Green Wedge, they are necessary to operate a pipeline efficiently and safely. Subsequently, the presence of those elements within the Green Belt and Green Wedge is argued by the Applicant to not to conflict with the purposes of such designations as set out in paragraph 138 of the NPPF, nor paragraph 3.74 of the PPW.
- 5.3.42. Notwithstanding that position, given the effects to the openness of such land designations, arising from the AGIs and the BVSs it is necessary for the ExA to consider whether there are any 'very special circumstances' (NPPF) and 'very exceptional circumstances' (PPW) that exist which would outweigh the harm to the Green Belt and Green Wedge.
- 5.3.43. The ExA highlights that during the Examination FCC and CWCC did not object to the respective 'very special circumstances/ very exceptional circumstances' cases made for Wales and England in the Planning Statement [REP4-022].
- 5.3.44. The ExA therefore in this recommendation report deals with the very special/ exceptional circumstances argument in Chapter 7, following the consideration of all residual matters. In doing so the ExA concurs with the Applicant's case made, largely on the grounds of demonstrable need.
- 5.3.45. Furthermore, before the ExA reached such conclusion it has factored into its conclusions the Applicant's submitted Landscape and Visual Impact Assessment which considers the establishment of mitigation planting to ensure significant visual effects are reduced. Landscape and visual effects are assessed by the ExA in more detail in Section 5.7 of this Chapter of the recommendation report and such considerations fall as part of the overall very special/exceptional circumstances case evidenced by the Applicant.

## **EXA CONCLUSION**

- 5.3.46. The ExA agrees there is a great deal of uncertainty involved in reliance upon pure nature-based solutions for CCS as a notional alternative. If taken alone, or even if combined with other forms of emerging low carbon emitting and storage technology in the wider economy there are no guarantees such an approach would be successful. Given the clear uncertainties involved there is no strong or convincing evidence that the doing nothing option would be a successful alternative to the Proposed Development.
- 5.3.47. Linked to the ExA's findings on alternatives is the underpinning need case of the Applicant where the supporting strategy rationale evidenced sets out a clear pathway to helping the UK meet its Net Zero commitments. Accordingly, the ExA accepts the doing nothing baseline would not be a

realistic option bearing in mind the UK's binding goals to achieve Net Zero by 2050.

- 5.3.48. As to other alternative route options referred to within [AS-064], the ExA accepts that the Applicant's likely construction costs and timings for the project route to be viable, alongside other variables such as land designation criteria and associated environmental mitigation success are pivotal in assessing other whether alternatives are feasible prospects.
- 5.3.49. Importantly, the Applicant sets out in detail within its ES the high-level overarching principles of how the final route corridor was narrowed down and eventually settled on. This offers a sufficiently clear and convincing context to the ExA that other alternatives have been properly discounted from the initial appraisal made.
- 5.3.50. Consequently, accounting for the Applicant's appraisal techniques and overarching guiding principles there is no strong basis to conclude any other alternative route not assessed by the ES would offer a better overall environmental outcome.
- 5.3.51. The ExA concurs that there are no other more suitable viable alternatives to the Proposed Development demonstrated in a 'do nothing' scenario. Furthermore, it is considered by the ExA that there are no viable alternatives to the preferred route submitted which would offer a more realistic or demonstrably favourable option in environmental terms, when considering all land designations and the range of natural and other physical assets involved. The Applicant's case is robust and convincing.
- 5.3.52. As part of the assessment of alternatives made, the ExA concurs the Applicant's route selection has properly considered Green Wedge designation (in Wales) and Green Belt designation (in England). In terms of above ground aspects, there would be one AGI (Ince) and two BVSs (Rock Bank and Mollington) sited within the Green Belt. Within FCC's administrative area, there would be one BVS at Aston Hill located within a Green Wedge. The AGI at Ince and the BVSs are built structures essential to the operation of the Proposed Development. Due to their scale and physical engineered nature, they would not preserve the openness of the Cheshire West and Chester Green Belt, nor the openness of the Green Wedge within Flintshire.
- 5.3.53. Accordingly, the ExA concludes those above ground aspects of the Proposed Development would be 'inappropriate development' in local and national policy terms in those particular areas. Nonetheless, the overarching very special circumstances case identified by the Applicant is important, and therefore a balancing exercise is undertaken by the ExA in Chapter 7 for this aspect. The ExA attributes very great weight to harm arising from inappropriateness in both the Green Belt and Green Wedge, including the purposes of including land within those designations, in line with the advice of NPS EN-1.
- 5.3.54. Overall, the ExA finds that an adequate and proportionate assessment of alternatives has been undertaken by the Applicant covering both Wales

and England. Moreover, the ExA accepts that the underpinning need case made by the Applicant is compelling and carries very great weight in favour of granting the DCO.

## **5.4. CLIMATE CHANGE RESILIENCE POLICY**

- 5.4.1. Bearing in mind that some of the legislation and policy already detailed by the ExA in Chapter 3 are factors to gauge the application against, ES Chapter 10 Greenhouse Gases Rev C [REP7-048] – Section 10.2 refers to specific climate resilience related legislative and policy triggers considered by the ExA.
- 5.4.2. In that vein, PPW cites *“the land use planning policies of the Welsh Government”* with the aim to *“ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales”*. Comparatively within England the NPPF sets out the core planning principle of supporting *“the transition to a low carbon future in a changing climate...”*
- 5.4.3. At a county level FCC’s Climate Change Strategy 2022-2030 actively encourages investment in renewables, investing in electric charging infrastructure, working with suppliers to develop carbon neutral practices, and developing carbon absorption and enhancement of habitats. The Council also outlines its plans to integrate sustainability consideration into its decisions and reduce the environmental impact of procurement through sustainable procurement processes. Flintshire LDP Policies EN13 (Renewable and Low Carbon Development); STR14 (Climate Change and Environmental Protection) and PC4 (Sustainability and Resilience) are all supportive of addressing climate change problems to ensure a more resilient region.
- 5.4.4. Likewise, the Cheshire West and Chester Climate Emergency Response Plan (2021) declares there is a climate emergency, and that the Plan sets the strategic direction for the Council to prioritise climate change and achieve carbon neutrality by 2045. The Plan sets out the actions that the Council will take to respond to the climate emergency and its potential trajectory over the period 2020-2045.

## **THE APPLICANT’S CASE**

- 5.4.5. Beyond the net zero imperatives the remaining technical case made by the Applicant in the submitted ES focuses on ‘climate resilience measures’. Those resilience measures stem from a vulnerability assessment which refers to the impact of climate change on the Proposed Development (rather than the impact of the Proposed Development on the environment).
- 5.4.6. The UK Climate Projections 2018 have been used to infer future changes in a range of climate variables that may affect the resilience of the Proposed Development to climate change.

- 5.4.7. Because of those variables the Applicant accepts there are inherent uncertainties associated with climate projections and they are not predictions of the future. They recognise it is possible that future climate will differ from the future baseline climate against which the resilience of the Proposed Development has been assessed, depending on global emissions over the next century. The Applicant has thus adopted a precautionary approach (ie the 'worst case' scenario) for land within Wales and the North-West region.
- 5.4.8. During operation shrinking and cracking of soils leading to ground destabilisation are the main risk. Additional ground investigations are submitted to be undertaken including ground stability surveys (extending to the sampling of groundwater) at pre-construction to determine and address any ground stability risks arising.
- 5.4.9. At decommissioning stage flood risk and environmental temperature increases leading to fire risks and safety implications are the main significant issues which would require adequate future management. Consequently, a Decommissioning Environmental Management Plan is included as a Requirement (R) of the draft DCO (dDCO) to mitigate these end of operational life issues.
- 5.4.10. The operational phase of the Proposed Development is expected to have a life of 25 years (running to 2050) with the pipeline itself designed for a 40-year life span. The basis for the operational life span of the Proposed Development in the ES is 25 years and the ES confirms it will be decommissioned when it ceases to be operational and reaches the end of its useful life (ES Chapter 3 [REP7-036] paragraph 3.8.1). The eventual decommissioning works envisaged by the Applicant include the removal of the AGIs and BVSs, whilst the newbuild CO<sub>2</sub> pipeline and existing Flint Connection to PoA Terminal pipeline are indicated to be left in situ.
- 5.4.11. Whilst the construction period has been scoped out of the Applicant's assessment due to its short time frame and low vulnerability to climate change, decommissioning has been assumed to take place after 2050, where climate change projection may be more extreme.
- 5.4.12. During operation monitoring would be covered by a schedule of general inspections of AGIs/ BVSs that would identify any potential maintenance requirements. Extreme weather-related incidents would also be monitored and, following such events, any required maintenance would be undertaken. This is specified in the submitted Register of Environmental Actions and Commitments (REAC) Revision H [REP7-236].
- 5.4.13. Furthermore, an Outline Operations and Maintenance Environmental Management Plan (outline version updated incrementally to Revision D at Deadline (DL) 7) [REP7-271] is to be secured as a R of the Applicant's preferred dDCO.

## **INTERESTED PARTY VIEWS**

- 5.4.14. FCC and CWCC were generally content with monitoring and mitigation measures proposed by the Applicant to ensure satisfactory climate

resilience provision of the Proposed Development within both Wales and England during construction, operation, and end of life stages.

- 5.4.15. Wider IP comments during the Examination highlighted some concerns regarding safety during the operational and decommissioning phases. However, statutory consultees did not highlight specific or insurmountable technical concerns.
- 5.4.16. For example, the Health and Safety Executive (HSE) [REP8-045] stated that pipeline operators have duties under the Health and Safety at Work Act to reduce risks to both employees and the public, including ensuring that risks are properly managed. The HSE advised it regulates pipelines through the Pipelines Safety Regulations 1996 (PSR) which apply to all pipelines in Great Britain, and to all pipelines in territorial waters and the UK Continental Shelf (with some limited exceptions). Pipeline operators are required to comply with the general duties and responsibilities set out in the PSR, and with additional duties if they are operating a Major Accident Hazard Pipeline (MAHP).
- 5.4.17. A MAHP is one in which a 'dangerous fluid' identified within Schedule 2 of the PSR is being or is to be conveyed. In response to ExA questions the HSE through [REP7-314] recorded that the transportation of CO<sub>2</sub>, as intended by the Proposed Development, does not currently constitute the transportation of a dangerous fluid as defined in the PSR; and the proposed pipeline would not under current legislation be classified as a MAHP.

## **EXAMINATION**

- 5.4.18. The ExA acknowledged throughout the Examination there are deeper need case arguments to have regard to in assessing climate change matters. Thus, the ExA found it appropriate to separate out need case climate change benefits from climate change resilience arguments made by the Applicant. The below ground position of the pipeline limits what needs to be considered in assessing resilience measures. Subsequently, because of that the ExA took a proportionate approach to its assessment of the Applicant's case.
- 5.4.19. It was also the ExA's viewpoint that biodiversity and ecological mitigations were ultimately part of the complete resilience mitigation package to be assessed. Subsequently, many main elements of the Examination focused on that provision.
- 5.4.20. In that context, during the Examination, the ExA noted ES Chapter 10 (Greenhouse Gases) [REP7-048] at paragraph 10.9.3 gives estimates of GHG emissions arising from embodied carbon, transportation of construction materials, transport and disposal of waste, and plant use estimated to be in the order of 81,328 tonnes of CO<sub>2</sub> equivalent (tCO<sub>2</sub>e). During operation GHG emissions arising have a negative value of -61,247 tCO<sub>2</sub>e. Which is a positive effect referred to by the Applicant.
- 5.4.21. ES Chapter 10 (Greenhouse Gases) [REP7-048] at paragraph 10.9.16 sets out that GHG emissions arising from end-of-life decommissioning of

the Proposed Development are estimated to be approximately 11,765 tCO<sub>2</sub>e.

5.4.22. The Applicant has set out a range of mitigation and enhancements measures to reduce GHG which are recorded in the submitted REAC. This includes provisions for:

- avoiding waste;
- smart procurement and supply chain management using local channels;
- carbon efficient plant and construction techniques;
- opportunities to secure energy from clean energy suppliers.

Following questions on building techniques involved in managing soil disturbance the ExA was broadly content with those provisions.

## **EXA CONCLUSION**

5.4.23. In terms of direct GHG impacts the ExA agrees that appropriate legislation and policy has been assessed in England and Wales as recorded in ES Chapter 10 [REP7-048], and the wider ES considered as a whole. The ExA also finds that:

- There would be only a minor adverse GHG effect during construction as concluded in ES Chapter 10 (Greenhouse Gases) [REP7-048] which would not be significant.
- The operation of the development including the avoided emissions captured from the plants that feed into the DCO pipeline system as part of the Project would be greatly beneficial.
- There is likely to be a minor adverse GHG impact at decommissioning stage. However, it is not considered that it would be at significant in EIA terms.

5.4.24. For future climate change resilience implications, the ExA finds that an appropriate baseline has been adopted in the Applicant's ES to assess climate resilience in both Wales and England ie worst case scenarios, given the uncertainty in adhering to future weather pattern predictions.

5.4.25. Furthermore, the ExA acknowledges that climate resilience matters in their fullest sense should be addressed having regard to the specification of the biodiversity and ecological mitigation proposed. Given the overlap, the ExA's key findings on that component are addressed in full in Section 5.5 of this Chapter.

5.4.26. Nonetheless, for the non-organic engineered components of the Proposed Development, the ExA finds that the monitoring and mitigation measures proposed within the REAC (which evolved incrementally up to Revision H [REP7-236], submitted at DL7); and in the Outline Operations and Maintenance Environmental Management Plan [REP7-271], when read alongside the provisions of the DCO collectively, amount to appropriate levels of climate resilience provision in the face of future climate change scenarios.



5.4.27. Having regard to the design optimisation to the Applicant from micro siting at more detailed stages, alongside the mitigation evidenced, the ExA recognises that construction emissions would be minimised as far as possible. There would not be any significant effects at construction phase because of those factors.

5.4.28. The ExA concludes:

- The vulnerability of the Proposed Development to projected changes in climate during operation has been adequately assessed by the ES. Subject to the Rs specified in the dDCO the Proposed Development would be resilient. Therefore, there is no conflict with adopted national, regional, or local development plan policies identified. All relevant policies would be complied with for Wales and England.
- Overall, the ExA finds with respect to climate change impacts there are no Likely Significant Effects (LSE) which weigh against the DCO being made. The Proposed Development would instead provide very great UK Net Zero benefits as detailed within the Applicant's need case which weighs significantly in the developments favour.
- Furthermore, the ExA concludes that the climate change resilience implications for the construction, operation, and decommissioning impacts of the non-organic engineered components of the Proposed Development would result in a neutral effect considering the mitigation and monitoring channels available. Accordingly, those specific climate change resilience matters do not weigh in favour nor against the DCO being granted.

## **5.5. BIODIVERSITY, ECOLOGY AND NATURE CONSERVATION POLICY**

5.5.1. ES Chapter 9 [REP7-046] at Section 9.2 sets out the most relevant legislation and policies addressed by the ES at national, regional, and local scales for Wales and England. The ExA refers directly to those provisions as well as applicable policy and legislative content listed in Chapter 3 of this report.

5.5.2. At a national level PPW states "*planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity*".

5.5.3. The NPPF advocates *that the "planning system should contribute to and enhance the national and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures"*.

5.5.4. NPS EN-1 and NPS EN-4, as well as the emerging dNPSs (dNPS EN-1 and dNPS EN-4), include promoting opportunities for the incorporation of

beneficial biodiversity features within the design of the development, ensuring biodiversity and geological conservation interests are conserved and enhanced and ensuring appropriate mitigation measures are put in place where necessary.

- 5.5.5. At a county and local level, FCC LDP Policies: STR13 Natural and Built Environment, Green Networks and Infrastructure; EN6 Sites of Biodiversity and Geodiversity Importance; EN7 Development Affecting Trees, Woodlands and Hedgerows; and EN11 Green Wedges are all material to the Examination. These policies, alongside the FCC Biodiversity Plan 'Supporting Nature in Flintshire 2020-2023' and CWCC LDP 2015 – 2030 Policy ENV4 Biodiversity and geodiversity, all encourage biodiversity protection and enhancement.
- 5.5.6. Notable national and local policy focus on ancient woodland and veteran trees was an important feature of the Examination. In that regard, NPS EN-1, together with dNPS EN-1 advises that ancient woodland is a valuable biodiversity resource both for its diversity of species and for its longevity as woodland. Once lost it cannot be recreated. Welsh national policies endorsed by Natural Resources Wales (NRW) indicate similar. It recognises the high value of ancient woodland and its cultural importance and sets out that permission should be refused for ancient and veteran tree removal.
- 5.5.7. Thus, the combined UK policy position both nationally (for Wales and England) and locally is that the SoS should not grant development consent for any development that would result in loss or deterioration of ancient and veteran trees unless the benefits (including need) of the development, in that location clearly outweigh the loss of the woodland habitat.
- 5.5.8. Aged or 'veteran' trees found outside ancient woodland are also particularly valuable for biodiversity and their loss should be avoided. Where such trees would be affected by development proposals the Applicant should set out proposals for their conservation or, where their loss is unavoidable, the reasons why.

## **THE APPLICANT'S CASE**

- 5.5.9. ES Chapter 9 (Biodiversity) Revision D [REP7-046] sets out the main aspects of the Applicant's case. At paragraph 9.3.2. Table 9.1 provides a summary of the consultation undertaken to inform the biodiversity assessment. The matters that were not considered to give rise to LSE from the Proposed Development and were scoped out of the assessment are identified in Table 9.2.
- 5.5.10. The biodiversity baseline is evidenced through a combination of desk study and field surveys. The study areas used to inform the EIA have been developed based on the likely Zones of Influence of the Proposed Development, during construction, operation and decommissioning and its potential to result in significant impacts/ effects on relevant ecological features.

- 5.5.11. To characterise the impacts and effects of the Proposed Development on ecological receptors, the nature conservation importance of each ecosystem, habitat and species is assigned a level of importance for nature conservation based on criteria detailed within the Chartered Institute of Ecology and Environmental Management (CIEEM) Guidelines, as detailed in Table 9.4 [REP7-046]. Table 9.5 then attributes significance category levels, also in accordance with CIEEM Guidelines.
- 5.5.12. Tables 9.6 and 9.7 of ES Chapter 9 detail the actual baseline conditions. Those recognise internationally designated sites recorded within 10km of the Newbuild Infrastructure Boundary, comprising five SACs, two Special Protection Areas and four Ramsar sites. Twelve nationally designated sites were identified within 2km of the Newbuild Infrastructure Boundary, comprising eleven SSSIs and one LNR. Thirty-eight non-statutory designated sites were identified within 1km of the Newbuild Infrastructure Boundary, comprising twenty-three local wildlife sites in England and fifteen wildlife sites in Wales.
- 5.5.13. Table 9.10 of [REP7-046] sets out a range of embedded mitigation measures designed for the Proposed Development. An assessment of the likely impacts and effects of the Proposed Development during both the construction and operational stages, after the implementation of embedded mitigation and in the absence of secondary mitigation, has also been provided.
- 5.5.14. The predicted LSE for Biodiversity associated with the 'construction stage', in the absence of secondary mitigation, are set out in Table 9.11 of ES Chapter 9 (Biodiversity) [REP7-046]. These are assessed in the ES as being moderate adverse or significant for a range of habitats and species.
- 5.5.15. Construction of the Proposed Development will result in the loss of habitats, for which mitigation and compensation would be provided.
- 5.5.16. ES Chapter 9 (Biodiversity) [REP7-046] at Table 9.12 sets out the details of secondary mitigation and compensation measures that have been developed for the Proposed Development, relating to ecology during the construction stage. No additional 'operational stage' mitigation or enhancement measures are deemed to be required by the Applicant as these have been incorporated within the embedded mitigation.
- 5.5.17. Residual effects post-mitigation and proposed compensation are set out in ES Chapter 9 at Table 9.13, with pre-mitigation effects found in Table 9.11. The post-mitigation residual effects are assessed by the Applicant as either negligible or not significant during the construction, operational, and decommissioning stages. The submitted Landscape and Ecological Mitigation Plan (LEMP), Revision C [REP7-191] is part of the overall mitigation and compensation package referred to by the Applicant, as is the Outline Landscape and Ecological Management Plan Revision B (OLEMP) [REP7-251].

- 5.5.18. In terms of specific assessment towards tree impacts, the Applicant acknowledges that in order to facilitate the construction the loss of trees (both individual trees and those from woodlands), will be required. In that regard, a worst-case scenario approach has been undertaken to assess trees/ woodlands considered to be 'at risk' of removal. ES Appendix 9.11 - Arboricultural Impact Assessment Report Revision D [REP7-107] provides the most up to date position following a series of change request acceptances by the ExA.
- 5.5.19. Impacts arising during the operational stage of the Proposed Development are assessed as having negligible significance (or not significant). Moreover, effects on ecological receptors during decommissioning are assessed to be of negligible significance (not significant).
- 5.5.20. The Applicant makes the underpinning argument that biodiversity enhancement opportunities would be considered further at detailed design, which is included as a commitment within its submitted REAC.
- 5.5.21. As further context, the Applicant points out the intention of Government is for the Biodiversity Net Gain (BNG) requirement initially introduced by the Environment Act 2021 to eventually apply across all terrestrial infrastructure projects, or terrestrial components of projects, accepted for examination by the Planning Inspectorate through the NSIP regime by November 2025 (subject to the provisions of the applicable NPSs or a biodiversity net gain statement). Projects accepted for examination before the specified commencement date would not be required to deliver mandatory BNG. Nevertheless, the Applicant has still submitted a BNG strategy which was developed during the Examination covering both Wales and England as part of its overall case.
- 5.5.22. In terms of specific climate change resilience considerations relating to biodiversity and ecology. The Applicant highlights that the local area is predicted to experience wetter winters and drier summers, with an increased likelihood of extreme events such as drought and storms. There are also expected to be increases in summer and winter temperatures alongside raised sea levels (some 0.24 metre (m)).
- 5.5.23. Those climatic changes are accepted as having the potential to have long-term effects on habitats and their extent in the area around the Newbuild Infrastructure Boundary. Changes may also impact the coverage of certain species within the study areas.
- 5.5.24. However, assuming all appropriate mitigation is incorporated into the Proposed Development, all residual effects resulting from the scheme in combination with predicted climate change effects are predicted to be either minor adverse or negligible and not significant.

## **INTERESTED PARTY VIEWS**

- 5.5.25. The ExA has given due consideration to all interested party commentary relating to biodiversity. However, only the most pertinent and key positions towards the end of the Examination are highlighted here by the

ExA. That is largely because considerations evolved relative to a range of information provided by the Applicant.

- 5.5.26. The Woodland Trust gave comments throughout the Examination. That is because of the ancient and veteran tree impacts triggered in construction of the Proposed Development. The final signed Statement of Common Ground (SoCG) [REP6A-015] with the Woodland Trust reiterates components of its Relevant Representation [RR-077] relaying serious concerns with the Ancient Woodland Inventory, plus a potential impact to numerous veteran trees as outlined in the Arboricultural Impact Assessment at DL4 [REP4-118]. This document was subsequently updated by [REP7-107], submitted at DL7.
- 5.5.27. There were further concerns expressed by the Woodland Trust that adjacent to the pipeline boundary would be subject to noise and dust pollution during construction, plus potential direct impact to one woodland which is subject to a trenchless crossing. As part of early design commitments, the Applicant has evidenced it has sought to avoid sensitive habitats and features, wherever possible, including ancient woodland and veteran trees. Further efforts would be undertaken at the detailed design stage to further reduce and/ or avoid such receptors as secured by R4 of the Applicant's dDCO.
- 5.5.28. Nonetheless, a key matter not agreed upon relates to ancient woodland buffer zone distance adherence. The Woodland Trust raised within its Relevant Representation [RR-077] that a buffer zone of 30m should be implemented to all areas of ancient woodland to mitigate for the impacts during construction.
- 5.5.29. The Applicant has provided a 15m buffer zone across the Order Limits subject to an exception at 'New Bridge Farm'. At this exception location, the Applicant and FCC are recorded as having agreed that the proposed intrusive works would be some 13m from the ancient woodland that abuts the Order Limits at a Slurry Tank location (linked to design change Request 1 option PS02b). It is the case that non-intrusive works would be required within the 13m buffer upon the extant agricultural, worked field during construction. However, at this location mitigation outlined in the Outline Construction Environmental Management Plan (OCEMP) would be followed. Such measures include: a site-specific Arboricultural Method Statement (AMS); a Tree Protection Plan (TPP); and monitored by an Arboricultural Clerk of Works (ACoW) during construction.
- 5.5.30. Whilst the Woodland Trust acknowledged the agreement between the Applicant and FCC and highlighted no objections to the content of the OCEMP, even with that mitigation it did not concur with allowing any tree encroachment below the 30m distance it sought as a buffer between the Proposed Development and Ancient Woodland/ veteran trees.
- 5.5.31. A final signed SoCG with Natural England submitted at DL8 [REP8-022] was produced with no outstanding matters. The final signed SoCG with NRW [REP7-261] amongst other matters, agreed:

- The final LEMP should include revised details regarding long-term monitoring and management, with regards to biodiversity (protected species). The Applicant confirmed that details regarding long-term monitoring and management will be provided at detailed design stage. Cross boundary approaches to mitigation between Wales and England were engaged on.
- The barn owl survey area included a buffer to consider potential disturbance to breeding barn owls outside of the DCO boundary. Surveys for potential roost/ nest features were also completed for the entirety of the new pipeline route (where access allowed), which have also been revised and reduced during iterative design stages.
- Draft Protected Species Licences have been submitted to NRW for each relevant species (Badger, Great Crested Newts (GCN), and Bats).
- The Applicant's BNG approach was presented and discussed with NRW. No issues were raised in terms of the tailored approach applied to Welsh administrative areas subject to assessment and the methodology that was used.

5.5.32. The SoCG with FCC Revision F [REP7-259] amongst other items confirms:

- A cross-border approach to mitigation was discussed with FCC. FCC had no objections to that but suggested using local policy plans as a basis for restoring habitats and to provide suitable justification for locations. The Applicant's mitigation areas would be identified within the constraints of the Order Limits and would seek to tie in with and improve existing green infrastructure.
- The Applicant has further explored the need for mitigation in the context of the developed design and has confirmed that sufficient land is encompassed within the environmental mitigation areas within the Order Limits within Wales (as presented within the latest Works Plans [REP7-007]) to accommodate mitigation tree planting. As such a cross border approach to mitigation tree planting is now no longer considered required by the Applicant or FCC.
- BNG assessment undertaken by the Applicant does not address additional requirements. No detail has been provided of off-site compensation scenarios. The Applicant confirms that they are exploring opportunities for the creation of off-site compensation through liaison with appropriate and suitable landowners, stakeholders, and other IPs with a view to securing agreements.
- The Applicant has progressed discussion with FCC and other IPs with a view to securing land for required habitat offsets. These discussions being at an advanced stage, with proposed offset locations within Wales identified for hedgerows and ponds within the latest BNG Strategy. The Applicant and FCC are evidenced to be in discussions to conclude a s111 agreement to secure creation and maintenance of the hedgerow and pond habitat by FCC.
- Third-party landowner consent is needed to acquire land for the Applicant to deliver woodland habitat. To enable an enforceable mechanism which ensures delivery of woodland habitat, the Applicant and FCC are seeking to conclude a s111 agreement, which would

require relevant parties to enter into a s106 agreement once the Applicant has acquired land. The s106 agreement would obligate the Applicant to create the woodland habitat and maintain it for 30 years. The desired legal agreements were not reached prior to DL7 or by the close of the Examination. This matter is linked to the Applicant's BNG strategy.

- To accommodate Change Request 1 Option PS02b, it would be necessary to encroach 2m within a portion of the conservative 15m buffer area from the ancient woodland. It is proposed that no intrusive works will take place inside the 13m buffer area, with only surface access required. This approach was agreed with FCC on the basis that the proposed mitigation outlined in the OCEMP is followed and includes an AMS (Appendix F of the Applicant's Arboricultural Impact Assessment), a TPP and monitoring of works by an ACoW to ensure they are completed in accordance with the AMS. Adherence to this approach would be consolidated through R11 of the DCO.
- FCC confirmed its preference is for an existing agricultural slurry tank (on land concerning PS02b) to remain in situ given it has only recently received planning permission. Pre-construction surveys to determine any changes in baseline results would be undertaken in advance of construction and in response to the detailed design of the Proposed Development, as provisioned for within the OCEMP.

5.5.33. The Applicant's SoCG with CWCC [REP8-021] provides a record of active Applicant-led biodiversity interest engagement. It notes a series of agreements. At DL8 the commercial terms of BNG offsetting were at a final stage but not agreed. In those circumstances, a new key DCO R is suggested by the Applicant to be incorporated which is marked as not yet agreed upon in the SoCG. The ExA discusses these issues in the Examination section below.

5.5.34. The ExA has also had regard to the LIRs from CWCC [REP1A-002] (Appendix [REP1A-003]); and FCC [REP1A-005] (Appendix [REP1A-006]) in its consideration of biodiversity, ecology and nature conservation. However, the relevant aspects concerning ecology and trees were subject to more detailed updated host Council commentary at various DLs throughout the Examination, as already reflected above. Including REP5-030; REP5-031; REP8-041; REP8-041a; REP6-039; REP6-040; REP7-308; and REP8-044 for CWCC; and REP4-286; REP5-035; REP5-036; REP7-312; and REP7-313 for FCC).

## **EXAMINATION**

5.5.35. The differences and similarities in Welsh and English nature conservation policy as well as the range of underpinning legislation triggered by the Proposed Development were explored by the ExA through a mixture of Hearings and written questions. This was also to ensure any cultural and transboundary implications of biodiversity provision or local expectations were properly understood by all active parties.

5.5.36. The ExA through ExQ1 [PD-014], ExQ2 [PD-022] and ExQ3 [PD-027], tested biodiversity issues. At ISH1 [EV-008] to [EV-010] the Applicant was asked questions in regard to this matter by the ExA. The Applicant's

written questions responses at [REP1-044] and [REP5-025] are relevant. Additionally, examination document [REP6-035] details the Applicant's commentary on IP responses at DL5; as well as documents [REP6-036] and [REP7-291] that give the Applicant's comments on responses to ExQ2 and ExQ3. Furthermore, document [REP7-292] gives the Applicant's summary of the oral submissions made at the Hearings held during the week commencing 7 August 2023.

### **Trees (including Ancient Woodland and Veteran Trees)**

- 5.5.37. The ExA acknowledges that the potential presence of ancient and veteran trees and woodland was informed using the Woodland Trust's Ancient Tree Inventory; the Lle Map Browser (for Wales) database (as now migrated to [www.datamap.gov.wales](http://www.datamap.gov.wales)); and the Department for Environment, Food & Rural Affairs MAGIC (Multi-Agency Geographic Information for the Countryside) map database (for England). No WR or RR led to any significant doubts as to the accuracy of that information.
- 5.5.38. The Applicant was questioned by the ExA during the Examination specifically on the level of overall tree loss anticipated, and how such loss could be minimised or avoided. The Applicant's response to tree loss concerns refers to several scheme avoidance calibrations which evolved through an iterative process both prior to, and within the Examination itself.
- 5.5.39. It was noted by the ExA during the initial stages of the Examination that in the absence of a finalised detailed design, definitive extents of hedgerow and tree losses, across the Order Limits, could not be fully confirmed. Therefore, the ExA's questions raised issues relating to whether there was adequate information to allow a proper understanding of ecological/ habitat impacts given further survey requirements would be likely.
- 5.5.40. The Applicant's most up to date Arboricultural Assessment Revision D [REP7-107], received at DL7 indicates a total of 1,321 arboricultural features, consisting of 879 individual trees and 442 groups of trees, were surveyed by the ES. This assessment also confirmed 134 other planting/ tree features have been preliminary assessed as requiring removal and another 108 grouped features as requiring partial removal. Importantly, of the tree loss involved no Ancient Woodland loss is proposed. For all Ancient Woodland and veteran tree locations, trenchless construction methods would be used by the Applicant, with the aim to avoid any harm.
- 5.5.41. The ExA finds there is no reason to disagree with the majority of anticipated impacted trees identified in the ES, although the ExA has made specific findings in relation to the likely Ancient Woodland effects disputed by The Woodland Trust, in the subsequent paragraphs below. Change Request 1 [CR1-124] required an additional two removals from Section 3 of the newbuild pipeline route and three removals from Section 5. However, Change Request 1 in Section 3 has avoided the removal of seven trees, five of which are high quality, and three of these being assessed as veteran. Moreover, the previous earlier iterations of



[REP7-107] did involve direct loss of veteran trees. But this was able to be revised after the first set of Examination Hearings and questions by the ExA.

- 5.5.42. The total amount of unavoidable tree loss evidenced in the ES would be compensated through the implementation of new tree planting in the submitted landscape layouts for the AGIs at: Flint; and Northrop Hall; and the BVSs at: Aston Hill; Mollington; Rock Bank; Babell; Pentre Halkyn; and Cornist Lane.
- 5.5.43. In response to the ExA's concerns the Applicant has made clear its commitments to continue to seek to retain all trees, woodland, and hedgerows where possible during the development of the detailed design as per the OCEMP, where mitigation is also proposed.
- 5.5.44. The Applicant made submissions confirming that the reasonable worst-case scenario of the ES assumes that all trees (apart from retained woodland groups) within the 32m construction corridor are at risk of removal.
- 5.5.45. The Applicant also pointed out that ES Chapter 9 Biodiversity does not list all individual tree and hedgerow features which would potentially be at risk of removal. Table 9.11 is presented on the basis of the reasonable worst-case scenario of losses and impacts assumed to woodlands and hedgerows, given their status as Habitats of Principal Importance.
- 5.5.46. As per a standard approach to assessing impacts to trees, an impact assessment of individual trees and groups of trees considered to be at risk of removal (within the worst-case scenario-based assessment of losses) is referred to within Appendix 9.11 Arboricultural Impact Assessment, Revision D [REP7-107]. Where individual trees have been identified with other nature conservation value, for example, the presence of or potential to support protected and/ or notable species such as bats, these have been presented within Table 9.11 of ES Chapter 9 accordingly.
- 5.5.47. Subsequently, the Applicant also confirmed that no further surveys would be completed to inform the ES during the Examination. Where necessary prior to construction, any pre-commencement walkover surveys would instead be completed, in line with OCEMP Revision H [REP7-242]. Following detailed design, updated ecological/ habitat management prescriptions appropriate to the final detailed design would then be incorporated within the detailed LEMP.
- 5.5.48. For any reinstated or created habitats (hedgerows and tree planting), the submitted OLEMP provides a high-level approach to ecological and habitat management, which would be implemented through an eventual detailed full and complete version, secured through R11 (Landscape and Ecological Management Plan) of the DCO.
- 5.5.49. Turning to the potential impacts to the area of Ancient Woodland abutting the DCO area. The package of measures evidenced to the Examination includes non-intrusive and intrusive mitigatory practices;

excavation techniques and the limited linear relationship of the pipeline route, which generally moves away from the boundary of the Ancient Woodland.

- 5.5.50. The exception to this is the Ancient Woodland close to New Bridge Farm. However, the above package of measures, together with a substantial change in ground levels between the pipeline route and the ancient woodland, as observed by the ExA during the second Accompanied Site Inspection leads it to conclude that the Proposed Development is unlikely to harm the Ancient Woodland near New Bridge Farm or indeed elsewhere along the pipeline route.
- 5.5.51. In tandem, the Applicant has made several clear commitments relating to works adjacent to Ancient Woodland. For example, Commitment D-BD-008, presented in the OCEMP [REP7-292], specifically incorporates the use of trenchless crossing techniques to avoid and reduce adverse effects on Ancient Woodland present within the Order Limits.
- 5.5.52. The Applicant has evidenced through its layout drawings it has sought to avoid direct impacts (ie the felling of trees) to Ancient Woodland, specifically at Northop, and would maintain the integrity of woodland. Other areas of ancient woodland have been either been avoided or removed from the Order Limits and/ or buffered wherever practicable from construction. The ExA agrees with the ES assessment there would be no ancient woodland loss.
- 5.5.53. Tree loss avoidance measures have been satisfactorily demonstrated to the ExA. However, the Applicant and the Woodland Trust were not able to reach agreement on applying a 30m buffer zone to Ancient Woodland during the Examination. The Applicant has provided a 15m buffer zone across the Order Limits (which is broadly in line with the content of NPPG, albeit such advice is not adopted PPW/TAN for Wales in FCC's administrative area) subject to the exception of the Order Limits at New Bridge Farm where this is reduced to 13m for a small component of the route.
- 5.5.54. The basis for the Woodland Trust 30m buffer being cited as unduly excessive by the Applicant relative to prevailing national guidance. With no contrary specific guidance found in PPW contrary to NPPG on a comparable issue and the assessments of the ES undertaken by the Applicant informing its conclusions.
- 5.5.55. The ExA is aware of the range of national guidance available and note that the Woodland Trust advised buffer zone of 30m is not a formally adopted figure in Wales or England. The ExA is also cognisant that from a precautionary principle, the Woodland Trust buffer figure is higher in its own publications where they advise a minimum 50m should be maintained between a development and the ancient woodland, including through the construction phase. That said, the record of local engagement evidenced with FCC (who have visited the locations involved), is also vital to the ExA's findings taken alongside the specific

nature of the Proposed Development and the specific construction techniques applicable with all mitigation.

- 5.5.56. The Applicant and FCC both agree some works 13m from the ancient woodland, which abuts the Order Limits close to a slurry tank at Newbridge Farm, would be needed on the intervening worked agricultural land during construction phases. FCC's position on this matter considered the linear distance for the intrusive works proposed are limited and the proposed mitigation outlined in the OCEMP would be followed. In particular, commitment D-LV-015, presented in the OCEMP as secured by R5 (Construction Environmental Management Plan (CEMP)) and R11 (Landscape and Ecological Management Plan) of the dDCO would give additional safeguards.
- 5.5.57. Because of those inclusions, all Ancient Woodland areas would be protected during construction with a minimum 15m works exclusion zone at all other locations aside from New Bridge Farm (where it is reduced to 13m). For mitigation and drainage works, or in areas restricted by existing infrastructure, tree protection measures would be detailed within a site-specific AMS and shown on a TPP. Where necessary, working methods will be monitored by a suitable ACoW. The Construction Contractor will prepare the AMS.
- 5.5.58. Mitigation and management of noise and air quality impacts during the construction of the Proposed Development was evidenced to include a range of measures such as minimising construction traffic routing past sensitive receptors, choosing low noise equipment and optimising the location of equipment/ activities relative to nearby trees.
- 5.5.59. Construction works would be completed in accordance with the OCEMP, as secured by Requirement 5 of the dDCO, including a Dust Management Plan (see item D-AQ-004 of the OCEMP) as secured by R5(c). The measures proposed by the Applicant to manage noise and dust pollution during construction have been agreed acceptable by the Woodland Trust. By the end of the Examination the Woodland Trust/ FCC/ CWCC did not oppose the Applicant's approach to producing a TPP and appointing an ACoW, based on all oral and written submissions made.
- 5.5.60. Bearing in mind all mitigations the ExA takes the view the 15m and 13m buffer zones adopted by the DCO, alongside all mitigations (and given the strategic route trajectory settled on in planning the Proposed Development) is a reasonable approach by the Applicant, contrary to the greater distances endorsed by the Woodland Trust.

### **Protected and other species**

- 5.5.61. Early into the Examination, the absence of ecological surveys beyond the order boundary limits for barn owls and badgers was referred to by CWCC in its detailed correspondence received at DL2 [REP2-046]. It also highlighted concerns regarding incomplete surveys in respect of bats and barn owls and, initially considered the assessments of importance levels and value/ sensitivity of receptors to be based on incomplete data sets. Moreover, NRW [REP1-071] referenced a 100m buffer for barn owls,

where this is of relevance to some local areas the pipeline passes through, where there are known successful breeding roosts.

- 5.5.62. However, survey data was evidenced as recorded beyond the Order Limits by the Applicant for some receptors as presented within ES Chapter 9 (Biodiversity) [REP7-046] and its associated appendices (Appendix 9.5 Badger Survey Report [REP7-095]). Additionally, appropriate mitigation principles and measures were evidenced as being developed to safeguard identified receptors within and beyond the Order Limits.
- 5.5.63. Following further review of these issues CWCC were subsequently content that the level of ecological data sets submitted by the Applicant were appropriate. FCC also accepted the ecological surveys as undertaken by the Applicant were in accordance with best practice.
- 5.5.64. The Applicant provided a record of engagement where active dialogue was required with consultees in tandem with other examination submissions, for example responses with NE [REP1-070]; [REP5-043]; [REP6A-025]; and [REP7-317]. Although species protection was an important examination theme the outstanding matters broached with NE extended to soil and peatland management more so than species protection interests which were generally resolved by the commitments and future steps to be taken forward by the Applicant.
- 5.5.65. Elsewhere during the Examination, the Applicant prepared draft Protected Species Licences (PSL) and submitted them to NE and NRW in advance of a formal application. The completed SoCG with both NE [REP8-022] and NRW [REP7-261] agreed there will be a single project-wide mitigation licence for each protected species in the respective jurisdictions for Wales and England. Indeed, the SoCG with NE [REP8-022] agreed "*...following a review of the draft PSL for bats, GCN and water vole, NE were satisfied that the works will be able to be subject to licensing...*", whilst the SoCG with NRW [REP7-261] agreed, in relation to:
- GCN and bats, it doesn't consider there to be an impediment to the grant of a species licence but in the absence of the formal application, it was unable to provide any binding commitments as to the subsequent determination of a PSL application at this stage; and
  - Badgers, the documentation associated with a draft PSL for Badgers was considered to be agreed, in the light of the Applicant agreeing to key performance indicators being developed at the detailed design stage.
- 5.5.66. Whilst copies of the draft PSL were not entered into the Examination by the Applicant, the completed SoCG with NE [REP8-022] and NRW [REP7-261] imply each party was in favourable agreement. Which the ExA concurs is an acceptable position.
- 5.5.67. That said, NRW advised that the outline provisions for habitat clearance should be developed further and set out in a GCN Conservation Plan to be submitted as an Annex to the detailed CEMP to be submitted and approved by the LPA in consultation with NRW. The Applicant has

subsequently agreed with this step being included in its future proposals for the CEMP.

- 5.5.68. In addition, the ExA was made aware that PSL required to facilitate construction of the Proposed Development are likely to require a period of monitoring post implementation to ensure mitigation performs as expected and as required of any licence. Indeed, it was acknowledged by the Applicant to the ExA that post-completion monitoring surveys may be required for species subject to protected species licencing and will be specific to the individual species/ feature/ receptor.
- 5.5.69. By the end of the Examination the ExA had no strong reason to disagree with the LSE predicted for fauna contained in the ES. The pre-mitigation effects range to moderate adverse (or significant) for a range of habitats and species associated with the 'construction stage', as set out in Table 9.11 of ES Chapter 9 (Biodiversity) [REP7-046]. This document also sets out that post mitigation there would be no significant adverse effects.
- 5.5.70. Separate to the above, in order to satisfy various consultation responses the Applicant confirmed that a Biosecurity Method Statement would accompany the detailed CEMP and would address all relevant invasive non-native species concerns that may be encountered during any construction phase. Following the ExA's questioning regarding such mitigations, the Applicant confirmed that these would include provisions related to any discovery of Japanese Knotweed.

#### **Biodiversity enhancement / resilience measures**

- 5.5.71. The ExA recognised during the Examination that given the terms of the Environment Act 2021, BNG provision is not mandatory in England for NSIPs. Moreover, in Wales there is no adopted BNG metric to utilise. The ExA also recognised the legislative and policy provision within Wales and England. These factors are reflected in Section 1.5 of the Applicant's BNG Assessment Revision C [REP7-252]. Bringing these points together and having regard to Section 1.5 of the Applicant's BNG Assessment Revision C [REP7-252], the ExA accepts that the BNG information offered by the Applicant is a suitable measure to understand the level of ecological enhancement possible in both Wales and England.
- 5.5.72. Whilst NSIPs do not currently have to provide BNG in Wales or England there is clear policy and strategy support locally and nationally within Wales and England to provide appropriate biodiversity and ecological enhancements. Therefore, the ExA agrees it is advantageous for biodiversity enhancement levels to be assessed by way of an appropriate metric. Otherwise, there would be no reliable way to assess the level of any potential betterment on offer.
- 5.5.73. The ExA during the Examination asked the Applicant to further review (and if necessary, add to) its position to providing ecological and biodiversity enhancement in order to maximise the enhancement possibilities available. The ExA being conscious that the legislative and policy provision in Wales and England has both key similarities and differences.

- 5.5.74. The ExA acknowledges the Applicant's commentary that BNG is the end result of a process applied to development so that overall, there is a positive outcome for biodiversity. The process itself follows a mitigation hierarchy, which sets out that everything possible must be done to firstly avoid, secondly minimise, and thirdly restore/ rehabilitate losses of biodiversity on-site. Only as a last resort, residual losses are compensated for.
- 5.5.75. In addition, other enhancements can be provided using biodiversity offsets, which are distinguished from the forms of on-site mitigation in that they fall outside of the development site. These may consider further enhancement opportunities based on local biodiversity recovery strategies, schemes, and ecosystem service networks.
- 5.5.76. Following the response to the ExA's requested review during the Examination, the Applicant's stated goal remained to secure 'a minimum' of 1% net gain in Priority Habitats in both England and Wales. The Applicant's final BNG Strategy (Revision F) [REP8-024], received at DL8, represents the Applicant's position regarding these matters at the close of the Examination.
- 5.5.77. The ExA is aware that when allowing for best practice guidance as evidenced by the Applicant, irreplaceable habitats and statutory designated sites have been excluded from the BNG calculations. Net gain or no net loss cannot be achieved for a development if there is a negative impact on an irreplaceable habitat. Where such impacts persist, bespoke mitigation measures can be agreed. But gains can still be sought and assessed for the remaining habitats. Any habitat that cannot be recreated elsewhere, within a reasonable timeframe, falls as an irreplaceable habitat.
- 5.5.78. The Priority Habitat types 'Coastal Floodplain and Grazing Marsh', 'Ponds (Priority Habitat)', 'Lowland mixed deciduous woodland', and 'Hedgerows (Priority Habitat)' were identified by the Applicant from public data sets within the Survey Area; no other Priority Habitats were identified.
- 5.5.79. Therefore, the Applicant's BNG assessment presented a series of compensation 'Offset Sites' designed to achieve a minimum of 1% net gain of Priority Habitats across the Proposed Development. Habitat creation and enhancement was proposed in detailed consultation with both CWCC and FCC in England and Wales, respectively as well as NRW/ NE. This process considered local knowledge and existing Local Plan provision.
- 5.5.80. Examination document [REP8-037] sets out the Applicant's final position on unresolved Biodiversity related points. Given that the Applicant has made good progress but not concluded the BNG agreements anticipated, the Applicant suggested that should the ExA consider it necessary, a pre-commencement R, in the following terms, could be imposed in the DCO:-

*'No development may commence until a scheme (which may comprise of up to 2 parts being one for within England and one for within Wales) securing the provision of BNG of 1% or greater for the priority habitats affected by the authorised development (as calculated using Natural England Biodiversity Metric 3.1), has been submitted to and approved in writing by the relevant planning authority. The scheme must set out measures to deliver and secure the maintenance for 30 years of the BNG provision.'*

5.5.81. A recent precedent was evidenced to the Examination in support of the above R approach in the deemed planning permission of a Transport and Works Act Order for the Morlais Demonstration Zone Order 2021 (SI2021/1478) (Welsh Government reference DNS/3234121) as condition 23. In that example, the condition provided for a landscape compensation scheme which was proposed to be delivered through a contractual agreement where that agreement was not in place at the end of the inquiry period.

5.5.82. In terms of BNG, it was apparent by the end of the Examination, the Applicant intended to enter into legal agreements to secure off-site delivery and maintenance of the BNG provisions being proposed. In response to the ExA's Rule 17 letter [PD-028] seeking additional information concerning *"...the status of any s111 agreement(s), being completed under the Local Government Act 1972 and any Planning Performance Agreements being prepared, between FCC and CWCC"*, the Applicant, in its response at DL9 [REP9-012], advised:

- In regard to CWCC: *"A first draft of the BNG agreement covering all of the habitats required in England was sent to CWCC on 05 June 2023. Discussion on this was ongoing and the most recent draft was returned to CWCC on 14 September, Comments on those amendments are awaited."*
- In regard to FCC: *The Applicant and FCC "...have agreed that FCC will provide biodiversity net benefit... for Pond and Hedgerow Priority Habitats in Wales. Negotiation of a S111 agreement in which (a) the Applicant agrees to pay the agreed contribution to FCC for these services, and (b) FCC agrees to provide the BNB and maintain and monitor it for a 30-year period, is still ongoing. The locations of the BNB, and on-going principles around management and monitoring are agreed, and the Applicant anticipates entering into the agreement soon.*

*The Applicant and FCC have agreed that the Applicant will provide BNB for Woodland Priority Habitat in Wales. While the Applicant is in discussion with a third-party landowner to acquire land, the land will not be acquired prior to the end of examination. The Applicant has therefore provided FCC with a s111 agreement in which the Applicant would commit to providing a S106 agreement securing delivery of the Welsh woodland as soon as LBCCS [the Applicant] has acquired a legal interest in land which can accommodate the required Woodland Habitat creation.*

*A draft of the Pond and Hedgerow Priority Habitats s111 was provided in June 2023 and a draft s111 with a s106 for the woodland was provided to FCC on 14 August. Despite reminders being sent, the Applicant has received no comments on those drafts. The Applicant has separately been advised by FCC that part of the hedgerow provision which was identified previously is being reviewed and some adjustments in the precise location of provision may be required however this will not impact the overall strategy, assessment, or form of agreement, and the overall objective will be delivered.*

*A draft PPA was sent to FCC on 18 July 2023. Despite reminders being sent, the Applicant has received no comments on that draft.”*

- 5.5.83. Irrespective of the above delays, during the Examination it became clear that the relevant IPs were satisfied that a s111 of the Local Government Act 1972 would be used to secure:
- BNB for Pond and Hedgerow Priority Habitats in Wales;
  - the BNB Woodland Priority Habitat in Wales (with the s111 agreement requiring a further completion of a s106 of the Town and Country Planning Act 1990 in relation to the off-site delivery and maintenance of BNG provision);
  - the BNG agreement covering all the habitats required in England.
- 5.5.84. The Applicant and relevant IPs were satisfied that s111 agreement would be adequate to secure these matters and there was no requirement for such agreements to be entered into the Examination. The ExA has no reason to disagree with the Applicant or relevant IPs in this position and is content with the approach.
- 5.5.85. Turning to related climate change resilience implications concerning biodiversity the ExA queried if the provision of fast-growing trees could be secured for positive reinforcement or other embedded design features considered. The Applicant has included such provision. They also submit that there is uncertainty regarding how trees and woodland would respond to future climate change (with reference to Managing England’s woodlands in a climate emergency, Forestry Commission (2020)).
- 5.5.86. However, it is generally anticipated by the Applicant’s evidence that winters will become wetter, summers drier and with more intense summer droughts and rainfall events. General guidance includes planting a wider range of species because of the uncertainties relating to climate change and woodland management (with reference to Forest Resilience Guide 2 Improving the tree species diversity of Welsh woodlands, Natural Resources Wales, (March 2017)). The ExA has no basis on which to disagree.
- 5.5.87. It was recognised by the ExA that for the Applicant to maximise climatic resilience and ecological enhancement, species need to be chosen in accordance with the prevailing/ anticipated site-specific micro-climates, soil conditions and biodiversity aims. Thus, a diverse range of planting



species have been chosen by the Applicant which are able to become established and thrive in relation to future anticipated climatic conditions. The management approach is also described in the OLEMP. Additionally, it is noted precise species selection would be secured in the final LEMP.

5.5.88. Furthermore, seed bank provision was previously encouraged in submissions earlier in the Examination and the Applicant was requested by the ExA to clarify such provision in either the OLEMP (and any revision triggered by R11) and/ or the REAC document. Towards the end of the Examination the Applicant clarified the eventual LEMP secured by R11 of the dDCO would include details of the management of the soil and seed bank.

## **EXA's CONCLUSION**

### **Baseline/ survey/ methodology aspects**

5.5.89. The ExA finds:

- The Applicant's assessment methodology is comprehensive and transparent leaving little doubt as to how the effects of the Proposed Development has been quantified. It also makes use of competent person and expert level advice in reaching its overall conclusions which the ExA gives considerable weight to.
- The Applicant obtained baseline survey data, as a minimum, across the Order Limits but has also completed surveys beyond those, where proportionate to do so. The results have appropriately informed the ES and the development of mitigation principles and mitigation measures to safeguard receptors as required, assuming a reasonable worst-case scenario. Accordingly, the ExA is satisfied mitigation principles and measures evidenced would ensure receptors beyond the DCO Order Limits can be adequately safeguarded.
- Moreover, having regard to the elements scoped out of the Applicant's assessment [REP7-046] in Table 9.2 the ExA agrees that the components listed are appropriate and would not give rise to LSE because of the nature of the Proposed Development.
- Accordingly, the ExA accepts the ES baseline, the level of survey information, and the overall methodology provided is appropriate to base a decision upon. Whilst accepting those aspects the ExA also recognises that pre-commencement survey commitments for any unforeseen issues would still have a key role to play in accounting for overall risks.

### **Tree impacts (including ancient and veteran)**

5.5.90. The ExA is content that:

- Tree loss avoidance features strongly as an embedded design mitigation within the overall planning of the Proposed Development and is demonstrated by the ES. The Proposed Development was calibrated by the Applicant during the Examination period to further

reduce tree loss, and to bolster new tree planting in areas where it was possible to do so.

- The amount of tree loss (all of which is non-ancient and non-veteran in nature), as detailed by the Applicant's Arboricultural Assessment [REP7-107], is a worst-case scenario approach. However, in such a scenario this loss would result in significant adverse effects. In response to this impact the Applicant's mitigation strategy, as secured by R11 of the DCO, is considerable. This together with the proposed management regime, as set out in the OLEMP, allows for a significant amount of new tree planting, as well as establishing a 5-year maintenance period for all landscape elements, primarily including: hedgerows; grassland; and native shrub planting; and a 10-year period for native tree and woodland planting.
- In relation to Ancient Woodland the ExA has borne in mind all relevant factors, including the canopy spreads of the woodland area involved, and land level differences, relative to the 13m buffer zone distance at New Bridge Farm, and other buffer zones (15m in all other locations). It considers these to be sufficient and adequately secured through an R in the dDCO. In making that finding, the ExA does not concur a 30m buffer zone advised by the Woodland Trust is therefore warranted. In these circumstances, factoring all the Applicant's proposed mitigation relevant to Ancient Woodland and veteran trees, the ExA considers the risks to Ancient Woodland and veteran trees (which are not proposed to be removed) to be minimal, owing to the Applicant's well-reasoned and thought-out mitigation.
- Accordingly, whilst the overall level of tree loss would have an adverse impact, the ExA is mindful that compensation planting would go a substantial way to compensate for such loss. Furthermore, whilst there would be marginal risks regarding Ancient Woodland located at New Bridge Farm the ExA considers this risk to be limited in the light of the buffer zones proposed and topography in the surrounding area.
- Given the minimal risk, the ExA finds the overall tree compensation strategy, secured by the proposed DCO, to be appropriate relative to prevailing PPW/ TAN guidance applicable in FCC's administrative area, nor the NPPF/ NPPG applicable to England.

### **Protected/other species effects/mitigation**

5.5.91. The ExA finds that:

- The Proposed Development would result in the loss of habitats, for which mitigation and compensation would be undertaken as per Table 9.12 of ES Chapter 9 (Biodiversity) [REP7-046]. Post mitigation and compensation the ExA agrees with the findings of Table 9.13 as set out in ES Chapter 9 (Biodiversity) [REP7-046] that the resultant effects will either be negligible or not significant during the construction, operational, and decommissioning stages.

- The Applicant's approach to mitigation detailed in the LEMP [REP7-191] whilst in some respects is detailed, also incorporates measures which have been somewhat generalised, acknowledging the absence of a fixed design, whilst still providing sufficient prescription to ensure receptors are safeguarded and/ or mitigated during construction. On balance, bearing in mind separate licensing provision available, as progressed during the Examination period, the ExA accepts this is a proportionate and reasonable approach by the Applicant.

### **Biodiversity enhancement/Resilience measures**

5.5.92. The ExA finds that:

- Enhancements offering a defined net gain value of at least 1% in all Priority Habitats within both England and Wales (measured independently or collectively as administrative areas) would be realistic using Priority Habitat offset sites. Nonetheless, in the absence of confirmation of any completed obligations securing off site biodiversity enhancement provision the delivery of a minimum of 1% gain is not guaranteed.
- Thus, the ExA concurs that the additional DCO R wording (as previously detailed above) for ensuring such delivery measures is needed to make the development acceptable in planning terms in the manner posed by the Applicant. This approach aligns with Welsh legal and policy provision as well as the associated policy aspirations present within England. The ExA's highlights its position on this in that BNG is not mandatory for NSIPs and that the desired ecological enhancement being referred to uses BNG terminology for administrative convenience purposes only.

### **ExA's Overall Conclusion**

5.5.93. The ExA has had regard to all national, regional, and local policy provision on biodiversity and ecological conservation, as well as key legislation drivers for Wales and England.

5.5.94. The ExA is content that there is no strong evidence to show that there would be any wider effects on biodiversity or nature conservation beyond those assessed by the Applicant in the submitted ES. The likely reasonable worst-case effects have been identified in respect to biodiversity and ecological conservation.

5.5.95. The ExA finds that the Applicant has sought to avoid harm to biodiversity as far as it is able to. In tandem with avoidance measures the ExA finds there is a well evidenced and extensive package of mitigation and compensatory measures provided by the Applicant. Such measures are properly secured and would encompass added built in flexibility to deal with any changes in circumstances affecting the effectiveness of mitigation.

- 5.5.96. Sufficient levels of overall positive biodiversity and ecological enhancement for Wales and England would only be possible with a requirement being added to the DCO, in the form as set in the above mentioned SoCGs with FCC [REP7-259] and CWCC [REP8-022]. Therefore, the ExA has included such a requirement in the recommended DCO (rDCO).
- 5.5.97. The ExA finds that in allowing for all avoidance strategy, mitigations and enhancements evidenced there is no significant or overwhelming conflict with adopted local policy prevailing in Wales or England.
- 5.5.98. Nevertheless, in finding the above the ExA also acknowledges national policy for Wales and England recognises ancient woodland (and veteran) trees are irreplaceable. Those natural assets are defined to have exceptional biodiversity, cultural and heritage value and any risk of harm to such habitats, however limited, represent a further adverse effect that needs to be weighed in the planning balance. The ExA finds any potential risk to the health of Ancient Woodland abutting New Bridge Farm or elsewhere along the pipeline route (albeit limited) counts against the Proposed Development. In view of NPS EN-1 and PPW combined, the ExA gives great weight to that issue.
- 5.5.99. In that regard, the need for and benefits of the Proposed Development must clearly outweigh any ancient woodland harm (including potential harm) if consent is to be granted. That exercise is undertaken in Chapter 7 of this report.
- 5.5.100. Based on all of the above, the ExA is content that appropriate consideration has been given to all likely significant effects on biodiversity within the ES. Subject to the provisions of the Applicant's suggested added R to the rDCO (Appendix D), there are no other negative ecological impacts which weigh against the granting of the DCO.

## **5.6. FLOOD RISK/ WATER RESOURCES/ LAND CONTAMINATION POLICY**

- 5.6.1. The ExA acknowledges that Section 18.2 of ES Chapter 18 (Water Resources and Flood Risk) [REP7-063] sets out all watercourse and flood risk related legislation and policy. The ExA has used that information as a basis for its assessment as well as the relevant content referred to in Chapter 3 of this report.
- 5.6.2. In summary, the important and relevant considerations of focus in the Examination included those at national levels (relevant to Wales and England). This extended to NPS EN-1 where Paragraph 5.7 discusses flood risk planning requirements for energy projects. This guidance refers to Planning Policy Guidance (for England) and TAN15 (for Wales), advising that a Flood Risk Assessment (FRA) and Flood Consequences Assessment (FCA) will be required for the Proposed Development. Paragraph 5.15 then discusses water quality and resources, stating that

the ES should consider water quality, quantity, physical characteristics of the water environment and the WFD objectives of waterbodies.

- 5.6.3. With respect to NPS EN-4, section 2.22.2 advises that constructing pipelines creates corridors of surface clearance and excavation that can potentially affect various receptors such as watercourses, aquifers, water abstraction and discharge points, areas prone to flooding and ecological receptors. Pipeline impacts could include inadequate or excessive drainage, interference with groundwater flow pathways, mobilisation of contaminants already in the ground, the introduction of new pollutants, flooding, disturbance to water ecology, pollution due to silt from construction and disturbance to species and their habitats. It states that impacts during construction should be avoided as far as possible through alignment selection or mitigated if unavoidable and ground should be reinstated after construction.
- 5.6.4. From a local perspective FCC's Preliminary FRA (2011); Flintshire Local Flood Risk Management Strategy (2013); CWCC Local Plan, Policy ENV1 alongside CWCC Local Plan (Part Two) Land Allocations and Detailed Policies – Preferred Approach (2015) all combined seek to provide useful flood risk management information and approaches that are sensitive to the local area. The ExA is also cognisant that for the Flintshire area TAN15 permeates local policy as an important consideration.
- 5.6.5. For contamination implications the content of Section 11.2 of ES Chapter 11 (Land and Soils) Rev C [REP7-050] is applicable. It gives a full account of the legislative and policy triggers and other technical guidance. National policy for England in NPS EN-1 and PPW (bearing in mind the content of TAN5, TAN12 and TAN15) respectively do not significantly differ in their aims.
- 5.6.6. Section 4.2 of NPS EN-1 and the content of NPS EN-4 combined seeks that Applicants to assess ground conditions associated with the pipeline route. Due mitigation measures are subsequently required under those policies to minimise any adverse effects on soil and geology. Such mitigation is advised to include measures to ensure that residual impacts on the surface are minor, for example some differential vegetation growth.
- 5.6.7. In tandem with those national provisions, at a local scale, all relevant environmental policies within the CWCC Local Plan; FCC Development Plans and The Deeside Plan (2017) have been paid regard to by the ExA.

## **THE APPLICANT'S CASE**

- 5.6.8. ES Chapter 18, Rev C [REP7-063] gives an overarching account of all water impacts triggered by the Proposed Development. Welsh and English impacts are separated out. For Wales the FCA (Appendix 18.5, Revision C, Parts 1, 2, and 3) [REP8-015], [REP8-016] and [REP8-017] are relevant. For England, ES Appendix 18.4 FRA Part 1 and 2 Rev C [REP7-175] and [REP7-177] are applicable.

- 5.6.9. Additionally, the Applicant submitted WFD Assessment Revision D [REP8-013]. The assessment study area undertaken spans a 25.2km corridor from Elton, Cheshire (England) to Flint, Flintshire (Wales).
- 5.6.10. A Ground Investigation Report [REP8-033] accompanies the Applicant's overall WFD assessment, as further context, and ES Chapter 14 (Materials and Waste) [REP7-055] also assesses the management of minerals and waste. Both of those information sources inform all mitigation and monitoring proposed by the Applicant.
- 5.6.11. In relation to land contamination ES Chapter 11 (Land and Soils) Rev C [REP7-050] is most relevant alongside ES Figure 11.1.3: Potential Contaminant Sources [REP4-269]. Additionally, the Applicant's 'Groundsure Location Intelligence' document [REP4-268] provides context to land contamination aspects which the ExA has had regard to. In addition, the Coal Mining Risk Assessment (Parts 1 to 10 [REP7-110] to [REP7-119]) gives further useful interrelated information to draw from.

### **Flood Risk**

- 5.6.12. The FCA (Appendix 18.5, Revision C Parts 1, 2, and 3) [REP8-015], [REP8-016] and [REP8-017] reports on the DCO infrastructure proposed within Wales only, from the English/ Welsh Border to the proposed Babel BVS. The FCA concludes: -
- As the newbuild pipeline is a linear development, it would cross various FZs throughout its alignment. But the pipeline falls under 'less vulnerable development' category. Accordingly, it complies with the requirements of TAN15 for this type of development.
  - Each AGI and BVS also constitute 'less vulnerable development' and, in line with the requirements of TAN15, they are suitable for development in FZ A areas.
  - An Outline Surface Water Drainage Strategy [REP7-295] has been developed alongside the FCA for all the proposed AGIs/ BVSs to demonstrate how surface water drainage will be managed in accordance with the requirements of the Lead Local Flood Authority (LLFA) and Sustainable Drainage Systems (SuDS) Approval Body (SAB).
  - The risk of flooding of the new build pipeline resulting from various sources including sewers, fluvial, tidal, and reservoir would be negligible given its below ground qualities. However, the pipeline route does cross areas with low, medium, and high risk of groundwater emergence and risk of flooding. This could lead to formation of preferential groundwater flow pathways through the pipe bed and surrounding material of the proposed pipeline (after the construction). These risks are proposed to be successfully mitigated by construction techniques such as clay plug use as part of the reinstatement of the proposed trenches and designing out the risk of buoyancy in key areas of concern for groundwater emergence.
  - Due to concerns raised by NRW related to the Proposed Development crossing of the Alltami Brook, which is examined later in this Chapter, the Applicant has proposed an alternative crossing of the Alltami

Brook. This alternative version it referred to as the Embedded Pipe Bridge Version (EPBV), which is not the Applicant's Preferred Version (APV) of the proposed crossing of the Alltami Brook. The EPBV of the crossing would not be buried but would be designed in such a way as to prevent any increase in fluvial flood risk to the EPBV or elsewhere. The design would be undertaken to comply with the requirements of NRW to allow for adequate freeboard above the recommended design flood levels.

- 5.6.13. ES Appendix 18.4 FRA Part 1 [REP7-177] (Tracked (No clean version of Revision C submitted)) and part 2 [REP7-175] (Clean) detail:
- That the BVSs and AGIs proposed would be served by a drainage system which is designed to accommodate climate change scenarios. The pipeline is below ground and therefore not at risk of climate change effects on the water environment or flood risk.
  - The FRA considers all flood risks can be sufficiently dealt with without leading to any significant harm in accordance with prevailing policy. To achieve that it recommends:
    - Long term groundwater monitoring is recommended to inform the detailed design of the Ince AGI; and further engagement is undertaken with the LLFA at CWCC, to ensure all the surface water management requirements are discussed and agreed.
  - The FRA and FCA accept works near flood plains and defences as well as detailed drainage strategy and design would require the Applicant to further liaise with the LLFA and SAB at FCC/ CWCC. This is to ensure all the stages of the SAB approval process are complied with. Moreover, it would be required as part of the OCEMP and Flood Risk Activity Permit (FRAP) application to be submitted for temporary and permanent works consent from NRW and FCC as LLFA in Wales, and the Environment Agency (EA) and CWCC as LLFA in England. Overall, the process would prevent flood and pollution risks.

### **WFD compliance**

- 5.6.14. The submitted WFD Assessment [REP8-013] makes the overarching case that through a design process, the Applicant has sought to eliminate, reduce, manage, and enhance potential impacts to the water environment and WFD receptors. Most of the potential impacts covered in [REP8-013] are assessed as being during construction.
- 5.6.15. As required by the WFD, the Applicant makes an assessment whether the Proposed Development would cause a deterioration in the ecological potential or status of a body of surface or groundwater.
- 5.6.16. Groundwater was scoped out of the detailed assessment due to no impacts being anticipated at the waterbody scale for England or Wales. The Proposed Development also entails associated drainage for AGIs and BVSs, and both trenched and trenchless crossings for the newbuild pipeline.

- 5.6.17. For the components of the DCO land area within Welsh administrative areas, the WFD assessment concludes: -
- There would be no deterioration of waterbodies: Wepre Brook; Swinchiard Brook; Dee (North Wales); Wheeler – Lower; and Pant Gwyn. All those waterbodies factor in the OCEMP, REAC and Groundwater Management and Monitoring Plan (GWMMP) [REP7-283] provisions.
  - Habitats close to waterbodies would be reinstated as far as practicable to replicate baseline conditions. Habitats are expected to naturally recover within two years following reinstatement and therefore no long-term impact is anticipated.
  - Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 is relevant to the assessment due to potential changes in the sediment dynamics. However, this is not considered to be a significant factor in the Applicant’s scoping exercises. In that vein, no sources of nitrates would be introduced to the waterbody as part of the Proposed Development. Therefore, no separate assessment is considered necessary for nitrates.
  - During construction trenchless crossings are expected to have minimal to no impact on WFD waterbodies, supporting the conclusion that no cumulative effects are expected.
  - For the Alltami Brook and Wepre Brook waterbodies, the WFD assessment concludes that the watercourses would be reinstated to mimic baseline conditions, thereby avoiding any deterioration.
  - However, considering the objections expressed by NRW, a ‘Without Prejudice WFD Derogation Case’ [REP5-016] (specifically for Alltami Brook) was included as part of the DCO submission. The Without Prejudice WFD Derogation Case of the Applicant has been prepared to present evidence to address all the Article 4(7) tests stipulated within the WFD legislation.
  - By providing further data and analysis, the derogation case seeks to demonstrate that the pipeline would not result in any deterioration of the status of Alltami Brook.

5.6.18. The evidence presented in [REP5-016] highlights the effectiveness of the mitigation measures and the alignment with established precedents such as the Waddensee<sup>6</sup> decision to prevent any adverse impacts on the waterbody.

5.6.19. For waterbodies within England the Applicant’s assessments focus on: Peckmill Brook, Hoolpool Gutter and Ince Marshes; Mersey Transitional; Gowy (Milton Brook to Mersey); Stanney Mill Brook; Shropshire Union Canal; Manchester Ship Canal; Fitchett’s Gutter; Garden City Drain; and Sandycroft Drain. The Applicant makes a no deterioration case for all

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<sup>6</sup> CJEU Case C-127/02 Waddensee 7 September 2004, Reference for a preliminary ruling from the Raad van State (Netherlands) in the proceedings: Landelijke Vereniging tot Behoud van de Waddensee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij.



those waterbodies considering OCEMP, REAC and GWMMP provision. It concludes:

- The Proposed Development would not compromise the ability of a waterbody to achieve good ecological status or potential, in doing so the Applicant highlights that where riparian zone tree removal is required along a watercourse, enhancements are proposed in accordance with the OLEMP to ensure there is no significant resultant effect.
- At the River Gowy crossing the new build pipeline would be buried below riverbed level without impacting on fluvial processes, as set out in the REAC. The Applicant highlights that in doing so this would not prevent the achievement of good status or potential.

5.6.20. Consequently, for all expected impacts in both Wales and England the Applicant's combined assessments indicates that it believes there is WFD compliance. The ES also confirms that with the implementation of appropriate mitigation measures, no cumulative effects are anticipated due to the temporary and short-term impacts during the construction phase.

5.6.21. Once a detailed pipeline design is available following micro-siting measures, the Applicant proposes to undertake a confirmatory review of cumulative effects to ensure it does not undermine WFD objectives or compromise delivery of WFD mitigation measures. Such confirmatory WFD review would be submitted with the expected flood risk activity Permit application, ensuring an evaluation of potential impacts and proper adherence to environmental regulations.

5.6.22. The overall mitigation and monitoring package proposed by the Applicant includes the following:

- A Surface Water Management and Monitoring Plan (included as dDCO R8);
- Turbidity Monitoring (REAC Reference D-WR-044);
- A GWMMP included as a DCO R (dDCO R5);
- A De-watering Management Plan included as a DCO R (dDCO R5);
- Geomorphological and ecological monitoring of the permanent works at Alltami Brook to identify any potential failure of the permanent works, which could lead to a significant impact to the water environment and aquatic habitat. Type, duration, and frequency of monitoring is proposed to be determined through the development of the geomorphological assessment and detailed design; in consultation with NRW and FCC (as LLFA) (REAC Reference D-WR-065). Secured by R3/ R5 of the dDCO combined.

## **INTERESTED PARTIES VIEWS**

5.6.23. Accounting for working Examination updates and alterations for the Welsh leg of the Proposed Development NRW were broadly content with the range of flood risk management and most groundwater impacts of the development. The principal area of disagreement which remained

throughout the Examination concerned the method of the pipeline crossing over Alltami Brook.

- 5.6.24. Importantly, NRW considers there 'may' be deterioration of the 'Wepre Brook' waterbody from the proposed open-cut (trenched) crossing of 'Alltami Brook'. The chief concern being the requirements of Article 4(7) of the WFD, as transposed by Regulation 19 of the WFD Regulations 2017, would not be satisfied. However, the Trenched Crossing Version (TCV) of the DCO (the APV) remained tabled at the close of the Examination. Although the Applicant also submitted an alternative EPBV of the DCO [REP8-007] in the event the ExA or the SoS found the APV to be unacceptable.
- 5.6.25. FCC in its Examination responses did not indicate any objections to water quality/ resource/ hydrogeological implications or land contamination or waste management matters. However, wider IP comment did convey some concern to overall water quality/ ecological implications in Wales and England.
- 5.6.26. With respect to the pipeline development within England, the EA [REP7-309] [REP8-043] having regard to the Ground Investigation Technical Report [REP7-293] recognised agricultural uses may introduce some ground contamination risks which could increase with works associated with the pipeline construction (ie de-watering; waste; soil and materials management plans).
- 5.6.27. The EA highlighted investigation holes within a 500m radius is not sufficient and there are sections of the Proposed Development where there are only one or two sampling points located within the pipeline corridor. Therefore, whilst the Applicant has identified in [REP7-293] additional areas for investigation (plots 1-25; 4-12; 8-10 and 8-12 in the Land Plans [REP7-008]), the EA's position remains that additional ground investigation and assessment work wider to the plots identified is required to ensure a sufficient understanding of the site characterisation for the pipeline route and to demonstrate the risks to 'controlled waters' can be appropriately managed within the Order Limits.
- 5.6.28. The EA also acknowledges the submitted REAC [REP7-237] makes provision for further investigation and assessment, based on 'point sources' of contamination (REAC Refs. D-LS-020 and, to some extent, D-LS-021). However, it considers such an approach would not be appropriate when factoring in risk. The EA takes the same position in terms of Schedule 2, R9 of the dDCOs (for the EPBV [REP8-007] or the Applicant's preferred TCV [REP9-011]).
- 5.6.29. With regards to the Stanlow Manufacturing Complex, the EA noted the Applicant has included a specific R for Land Plots 3-11; 3-12; 3-13; 3-14 and 3-15 within Schedule 2 R9 of the dDCOs (EPBV [REP8-007] or the Applicant's preferred TCV [REP9-011]). However, it points out whilst contamination issues at Stanlow may be complex, it does not consider it necessary to treat Stanlow separately to the wider pipeline development when considering the principles of managing contaminated land.

Accordingly, the EA considers a DCO R necessitating the submission and approval of site investigation/ assessment work; and, where necessary, remediation strategy(s); validation plan(s) and subsequent verification prior to the commencement of development for each stage would be appropriate.

- 5.6.30. Overall, during the Examination in highlighting several areas of disagreement, the EA requested that consideration be given to amending DCO R9 to ensure works are undertaken and sufficient remediation/ pollution control measures are established for submission and approval to the relevant authority, in consultation with them. The SoCG with the EA details some of these matters [REP9-004].
- 5.6.31. The ExA also acknowledges that the content of CWCC's LIR [REP1A-002], Appendix [REP1A-003]; and FCC's LIR [REP1A-005], Appendix [REP1A-006] combined do raise some flooding/ waterlogging and general drainage concerns. But in the main those local issues raised by the two host Councils were deferred to the EA and NRW during the Examination, where connected to assessing WFD compliance and overarching flood risk.

## **EXAMINATION**

### **Flood Risk for Wales**

- 5.6.32. The ExA was aware flood risk impacts were subject to active negotiation during the Examination with relevant consultees. The SoCG with NRW Revision E [REP7-261], submitted at DL7, subsequently agreed the contents of the FCA are broadly acceptable, but some minor updates were required, in the event of a breach in the River Dee (Afon Dyfrdwy) defences (Hawarden Embankment). The ExA also highlights that location plans, within the FCA, for each proposed crossing point on main rivers have been provided via Appendix 18.5 of the FCA (Part 3) [REP8-017] at Figure 18.5.17 Watercourse Crossings (Wales).
- 5.6.33. A review of Chapter 3 of the ES, against the new 'Flood Map for Planning' was undertaken by the Applicant and it found no changes to flood risk as reported in the FCA. The ExA had no reason to disagree with that position following IP input and all examination responses.
- 5.6.34. The ExA notes the dDCO commits the Applicant to producing a consolidated CEMP based on the OCEMP. NRW found this approach acceptable, provided the OCEMP was updated to confirm what will happen to any arisings resulting from the excavation works. The OCEMP was amended to clarify that for the proposed trenchless crossings of tidal watercourses the examination documents confirm entry and exit pits for the trenchless crossings would be located at least 16m away from the tidal watercourse and any flood defence structures on that watercourse.
- 5.6.35. It is also acknowledged that the FCA was updated to incorporate an assessment of flood risk for the proposed alternative embedded pipe bridge crossing over Alltami Brook. Updated mitigation measures were then based on this approach. NRW considered the assessment of risk and

proposed mitigation measures to be reasonable. But invited detailed hydraulic modelling at the detailed design stage to quantify flood levels and to inform the design of the bridge. The Applicant subsequently included a commitment in paragraph (8) of R4 in the dDCO. With those updates the ExA is content Welsh flood risk management policy is complied with.

### **WFD-for Wales**

- 5.6.36. During the Examination, the ExA was aware of the 'River Basin Planning Guidance: Statutory guidance on the implementation of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017', issued by Welsh Government December 2020. The ExA has considered its content when applying related strategic and local plan policy, TAN advice (collectively in the absence of a specific TAN on the water environment), as well as the legislative tests triggered.
- 5.6.37. In consideration of the above guidance, it is relevant to point out that the Environment (Wales) Act 2016 puts in place a modern legislative approach that recognises that Wales' water, land, air, and sea are all interlinked, and that economy, society and environment are all interdependent. It sets out the requirements to manage, use and enhance Wales' natural resources to deliver lasting, sustainable economic, social, and environmental benefits. The Act builds on the WBFGA and the Planning Act (Wales) 2015. A key theme of the Environment (Wales) Act is the sustainable management of natural resources, which draws on the UN Convention on Biological Diversity's Ecosystem Approach.
- 5.6.38. Collectively, it puts in place an area-based approach to plan and manage Welsh natural resources in a more joined-up way to improve ecosystem resilience and the ability of ecosystems to adapt to climate change. This involves the alignment of River Basin Management Plan objectives with Area Statements, which are the documents outlining the priorities, challenges, and opportunities for sustainable management of natural resources at a regional level in Wales.
- 5.6.39. The ExA found that many of the arguments put forward by the Applicant and IPs directly come back to legislative provision rather than matters of local or regional policy. These issues were recorded largely in relation to responses from NRW. FCC did not directly report any significant concerns towards local policy related WFD impacts or general compliance concerns with such legislation. It was also the case that the desirability and general policy compliance approach of preventing water pollution and protecting ecosystems at a Local Plan level was acknowledged by the ExA.
- 5.6.40. The statutory guidance referred to recognises it is applicable to NRW on the practical implementation of the 2017 Regulations, in so far as it relates to River Bed Districts (RBDs) that are wholly in Wales and the Welsh section of cross-border RBDs. The guidance is issued under regulation 36(5) of the 2017 Regulations. It also identifies that supplementary guidance on joint river basin planning in the Dee RBD will

be issued to NRW and the Environment Agency by the Welsh ministers and the SoS.

- 5.6.41. The ExA notes that no Area Statements were significantly referred to by NRW or other IPs in the arguments made.
- 5.6.42. The ExA tested WFD implications throughout the Examination period largely through Hearings, in the context of statutory responses from NRW. NRW advised the ExA that the WFD assessment [REP8-013] did not contain sufficient detail to demonstrate compliance with the WFD/ WFD Regulations 2017 ([REP6A-024] and [REP7-318]). It considered there to be a lack of evidence to support the proposed trenched crossing of the Alltami Brook (within the Wepre Brook waterbody) and took the view there may be deterioration of the Wepre Brook waterbody due to the potential loss of water flow from Alltami Brook. NRW therefore took the view the derogation requirements of Regulation 19 of the WFD Regulations 2017/ Article 4(7) of the WFD should therefore be satisfied should the TCV of the Proposed Development be pursued.
- 5.6.43. The Applicant produced a 'without prejudice' derogation case regarding water flow in the Alltami Brook. The WFD derogation report was submitted at DL5 [REP5-016], with NRW providing its response to this report at DL6A [REP6A-024]. NRW did not agree that the evidence satisfied the WFD 2017 Regulations in terms of derogation tests. NRW considered there was inadequate evidence to agree that a justifiable case had been made or that the beneficial objectives served by the modifications to the Wepre Brook waterbody could not for reasons of technical feasibility or disproportionate cost, be achieved by other means, which constituted a significantly better environmental option.
- 5.6.44. In response, the Applicant presented an alternative crossing option, initially at DL7, with minor amendments submitted at DL8, the EPBV [REP8-007], which it considered would not require a derogation case to be made. This was submitted as an alternative should it fail to satisfy the ExA or the SoS with the evidence it had submitted seeking to make a derogation case for its preferred TCV and that there were no significantly better environmental options.
- 5.6.45. NRW maintained its position concerning the Applicant's preferred trenched crossing of the Alltami Brook and asserted that the requirements of the WFD/ WFD 2017 Regulations, in respect of the derogation tests, were not met by the trenched crossing (NRW DL7 submissions [REP7-318] and [REP7-261]). NRW's position regarding this matter did not change by the close of the Examination.
- 5.6.46. NRW cite the trenched crossing could cause deterioration in WFD waterbody status due to the construction method and use of temporary culverts. It has also stated that there was no reference to cumulative effects in the WFD assessment.

- 5.6.47. However, the ExA recognises that the Applicant referred to such cumulative effects in Chapter 18 of the ES [REP7-063] and within its WFD assessment [REP8-013]. The Applicant in Examination responses to NRW has submitted potential impacts would be predominantly temporary in nature during the construction and would be managed through the OCEMP [REP7-242]. It maintains given the temporary nature of potential impacts, cumulative effects were not anticipated, and would not result in deterioration in WFD waterbody status. The Applicant rejects the notion that there would be water loss arising from Alltami Brook.
- 5.6.48. In summary, the ExA accepts these issues are complex and involve potential risks to the water environment. The ExA notes the Applicant's construction approach is well thought out using modern day techniques, as well as best practice. However, the ExA has taken a precautionary approach in assessing the case made. The ExA acknowledges that there may be a deterioration of the waterbody in line with NRW concerns. The ExA has also borne in mind the position of the nearby culvert under the A55 as a feature along the watercourse, in making its assessment, as an existing is physical restriction on waterflow and ecology.
- 5.6.49. Mitigation measures included by the Applicant to prevent harm to the Wepre Brook waterbody specifically include:
- Micro-siting of the pipeline during detailed design.
  - Reducing the working width for the open cut crossing to 16m.
  - A pre-works crossing point survey.
  - High pressure grouting of any uncovered fractures within the excavated bedrock.
  - A Groundwater Management and Monitoring plan.
  - A bespoke geomorphology assessment to inform the micro-siting of the crossing location and the detailed design of the permanent works.
  - Post-construction geomorphological and ecological monitoring of the permanent works.
- 5.6.50. The Applicant has proposed the environmental actions and commitments listed in Table 7.1 [REP4-235] to eliminate, reduce and manage both construction and operation impacts of the trenched (open-cut) crossing of Alltami Brook, including positive enhancement measures to offset impacts (D-BD-048 and D-WR-066).
- 5.6.51. Even if there was more bore hole information available informing the Applicant's initial assessments in the ES, the ExA does not consider the extensive mitigation proposed would be improved by such provision. Albeit such information may give more certainty of the geological conditions expected.
- 5.6.52. Although the OCEMP; REAC [REP4-235]; commitments in the OLEMP; and Outline SWMMP all seek to minimise risk, some significant waterbody deterioration risks would remain. In particular, the monitoring of the Alltami Brook crossing includes adaptive management should there be any signs of failure of the impermeable seal at the crossing location or degradation of the concrete, grouting or reinstated materials (D-WR-065 of the REAC). This mitigation measure could go a substantial way to

manage the potential hypothetical worst-case risk of loss of water flow to ground within the Alltami Brook, with the aim to protect the Wepre Brook waterbody from deterioration. Even so, there would still be significant residual risks, as water flow loss cannot be completely ruled out should the mitigations fail at any point.

5.6.53. Furthermore, if there was a degradation of the waterbody, the without prejudice derogation case [REP5-016] is material in the ExA's recommendation to the SoS.

5.6.54. In that regard, Article 4(7) of the WFD makes provision for a situation where the environmental objectives in Article 4(1) of the WFD legislation cannot be met, thereby allowing derogation from its requirements. For a derogation to be granted, the criteria in Article 4(7) must be satisfied. Article 4(7) states that there will be no breach of the WFD legislation when the following conditions (tests) are met:

- (a) all practicable steps are taken to mitigate the adverse impact on the status of the body of water;
- (b) the reasons for those modifications or alterations are specifically set out and explained in the River Basin Management Plan required under Article 13 and the objectives are reviewed every six years;
- (c) the reasons for those modifications or alterations are of overriding public interest and/or the benefits to the environment and to society of achieving the objectives set out in paragraph 1 [of Article 4(7) of the WFD legislation] are outweighed by the benefits of the new modifications or alterations to human health, to the maintenance of human safety or to sustainable development, and
- (d) the beneficial objectives served by those modifications or alterations of the waterbody cannot for reasons of technical feasibility or disproportionate cost be achieved by other means, which are a significantly better environmental option.

5.6.55. With respect to test (d) an option may be considered a significantly better environmental option if:

- The benefit it delivers is at least equivalent to the benefit that would be delivered by the proposal;
- Its environmental cost is significantly less than the environmental cost of the proposal; and
- It is economically viable and hence a realistic option.

5.6.56. When determining whether an option or modification is disproportionately costly, the guidance suggests that the following points are taken into account:

- The assessment of costs and benefits will have to include qualitative costs and benefits as well as quantitative;
- The margin by which costs exceed benefits should be appreciable and have a high level of confidence; and
- Disproportionate cost should also take into consideration the ability of those incurring the cost of the measures, to pay. A combination of the

most cost-effective solutions should be identified to inform the assessment of disproportionate costs.

- 5.6.57. The Applicant has identified an embedded pipe bridge as a realistic alternative to a trenched crossing and which would deliver an equal benefit (in that it would allow the pipeline to be constructed and operated) to the preferred trenched crossing. Nevertheless, the Applicant does not accept that the environmental cost would be significantly less than the trenched proposal when considered as a whole and not looking solely at a theoretical potential loss of water to ground. This was set out in the ES assessment of the bridge option [CR2-017].
- 5.6.58. The ExA acknowledges that the nature of the Proposed Development, wider legislation, and considerable policy support for CCS as an important pathway to reach Net Zero are all applicable factors. Therefore, the ExA is mindful that there is an overriding public interest case made by the Applicant, relative to the WFD matters broached by NRW.
- 5.6.59. However, the ExA also acknowledges that the NRW advice contained in [REP6A-024] which outlines all residual areas of dispute is convincing when considering the derogation case made. Overall NRW provide adequate reasoning to the ExA that a derogation case is not successfully made by the Applicant and therefore derogation should not be granted.

#### **Flood Risks -England**

- 5.6.60. Flood risk management implications in England were not considered to be detrimental during the Examination bearing in mind the information contained in the Applicant's technical responses and the proposed mitigation. The ExA has had no cause to disagree bearing in mind all WR, RR, and IP responses.

#### **WFD For England**

- 5.6.61. The ExA notes the EA agrees with the scope of the WFD assessment provided. However, it disagrees with some technical aspects of ecological enhancement – primarily as missed opportunities. It welcomes the intention to provide a confirmatory review of the WFD Assessment but notes this is only included in the Outline Surface Water Monitoring and Management Plan [REP8-029] and updated WFD Assessment [REP8-013] with regards to the WFD, mitigation measures and cumulative impacts.
- 5.6.62. The EA note that the channel and banks of watercourses would be reinstated to mimic baseline conditions as far as practicable [REP7-236] (D-BD-048). Given the scale of the proposal the EA is seeking to know what the detailed reinstatement works would entail.
- 5.6.63. In the main, the EA consider the information presented does not sufficiently address reinstatement for watercourses/ riparian corridor as further clarity on mitigation required will be determined at the detailed design stage.



- 5.6.64. In addition to the above, it was recognised by the EA that the OLEMP is intended to encompass measures for the reinstatement of watercourses and creation of habitats along riparian corridors and that the detailed LEMP has been included under R10 of the EPBV dDCO [REP8-007] as well as the APV, being the TCV of the dDCO [REP9-011].
- 5.6.65. The EA highlighted the confirmatory review of the WFD Assessment at the detailed design stage has not been included within the OLEMP, to ensure the assessment informs this plan. On this basis, the EA questioned the adequacy of mitigation measures that may be required at the detailed design stage to ensure no detrimental impact on WFD status is secured, as a concern.
- 5.6.66. At the end of the Examination, as detailed in [REP9-004] the Applicant's final position on this matter was that the OLEMP is an all-encompassing document that references measures and prescriptions for the reinstatement and creation of habitats across the entirety of the Order Limits. Subsequently, this covers the creation and reinstatement of habitats that will occur along riparian corridors that will support WFD mitigation, compensation, and compliance. The ExA has considered all responses.

## **EXA'S CONCLUSION**

- 5.6.67. The respective initial positions of CWCC's LIR [REP1A-002], Appendix [REP1A-003]; and FCC [REP1A-005], Appendix [REP1A-006] have informed the ExA's findings alongside other relevant host Council deadline submissions and the overall IP commentary received.
- 5.6.68. The Applicant has made commitments relating to micro-siting of the proposed pipeline at the detailed design stage (as per D-BD-009 of the REAC) to reduce potential adverse impacts to the water environment, as far as possible. In that context, the ExA considers the OLEMP and LEMP thereafter, would offer adequate safeguards relative to the WFD for the pipeline route areas within England.
- 5.6.69. In summary, the ExA considers that the riparian/ ecological enhancement on offer could go further, in light of EA concerns, but with the Applicant proposing riparian planting along the East Central Drain near Ince AGI, it is considered this would reduce the riparian encroachment currently recorded on that watercourse and this would go some way to contributing to overall ecological enhancement within England. That step combined with other riparian planting committed to at: Friars Park Ditch; Backford Brook; and Finchetts Gutter Tributary (as per D-WR-062 of the REAC [REP7-236]), would be adequate for water quality harm prevention. Thus, whilst EA concerns are noted, the ExA considers that from a WFD perspective, the Applicant's ecological commitments are adequate in England.
- 5.6.70. In relation to EA responses to securing sufficient remediation/ pollution control. The Applicant's position on all of those points is summarised in Section 2 (paragraphs 3.1 to 3.6) of its update on the DCO drafting

[REP7-294], submitted at DL7. At DL8 the Applicant submitted updated wording for R9 of the dDCO [REP8-005] following discussions with the EA. A Ground Investigation Technical Report [REP7-293] was submitted by the Applicant at DL7 and an updated version of this technical report was further submitted at DL8 [REP8-033]. Having considered all submissions made inclusive of EA concerns, the ExA is content there would be adequate safeguards in the DCO.

- 5.6.71. Taking the above into consideration, the ExA is satisfied that the Applicant's submitted FCA (Wales) and FRA (England) was appropriately undertaken and accords with the NPSs, PPW and the NPPF. The ExA also considers the total mitigation identified in the FRA/ FCA and ES, as a whole, is sufficient to safeguard against the risk of flooding or future risk of flooding and would be secured by: R4 (Scheme Design); R5 (CEMP); R8 (Surface Water Drainage); R11 (Landscape and ecological management plan); R18 (Operational and maintenance environmental management plan); and R19 (Decommissioning environmental management plan) of the rDCO, attached at Appendix D of this report.
- 5.6.72. The ExA agrees future climate resilience issues arising have been adequately addressed, bearing in mind all Rs incorporated and design mitigations within the DCO. It is also content that adequate mitigation measures and safeguards relating to pollution control and land contamination in Wales and England are proposed and secured in the rDCO, attached at Appendix D of this report, including under:
- R8 (Surface Water Drainage);
  - R9 (Contaminated Land and Groundwater);
  - R5 (CEMP); and
  - R19 (Decommissioning).
- 5.6.73. In relation to the Alltami Brook trenched crossing in the Welsh limb of the Proposed Development, which is the APV of the DCO [REP9-011]. The ExA accepts NRW's objections that it may cause deterioration of the Wepre waterbody. Even though the methods of construction, together with mitigation proposed by the Applicant which would be secured by that version of the DCO are extensive, the nature of the trenched crossing 'may' still lead to a deterioration of the waterbody from the notional loss/ flow of water should that occur.
- 5.6.74. The ExA recognises this issue is finely balanced, but in the light of the evidence submitted during the Examination, it is considered the APV of the DCO (the TCV) [REP9-011] would not be compliant with the WFD, and that a grant of derogation is required.
- 5.6.75. However, alternatively the SoS may disagree with the ExA on this point and should that be the case, the SoS is able to refer to this version of the DCO should they find it acceptable in WFD terms. To do so the SoS would need to be content there would be no breach of the WFD arising from the deterioration of the waterbody.
- 5.6.76. Should the SoS agree with the ExA's position that the TCV is not acceptable, the SoS will need to consider the derogation tests, as set out

in Article 4(7) of the Water Environment (WFD) (England and Wales) Regulations 2017, and decide whether to grant derogation or not as the case may be. In this event the Applicant's 'Without Prejudice WFD Derogation Case for Alltami Brook Crossing' [REP5-016], submitted at DL5 would be applicable.

- 5.6.77. However, the ExA's finding is that a derogation case has not been successfully made in line with the advice of NRW, as detailed in its DL6 submission [REP6A-024], which in terms of the TCV (the APV) stated "NRW has reviewed the report and in summary advises that the evidence provided by the Applicant in support is insufficient/ inadequate to enable the ExA to conclude that a robust WFD derogation case can be made." Having considered all relevant evidence/ submissions entered into the Examination, the ExA does not disagree with NRW's position in this regard.
- 5.6.78. Despite the above, the ExA concurs with NRW's opinion that EPBV of the DCO [REP8-007] cannot conflict with the WFD due to its method of construction and there would be no need to grant derogation for that crossing.
- 5.6.79. Thus overall, the ExA considers only the EPBV [REP8-007] version of the dDCO submitted, would accord with all relevant legislation and policy requirements in Wales and England combined, in regard to water quality, flood risk, future flood resilience effects and pollution, including those in NPS EN-1, NPS EN-4; the emerging dNPSs, PPW, TANs and policies in the LDP's of FCC and CWCC.
- 5.6.80. Accordingly, subject to the EPBV [REP8-007] version of the DCO being adopted (which is an alternative to the APV (the TBV), the ExA considers that impacts on water quality, flood risk and future flood resilience effects, as well as pollution, would be neutral factors in the planning balance.

## **5.7. LANDSCAPE AND VISUAL AMENITY/ DESIGN AND LAYOUT POLICY**

- 5.7.1. NPS EN-1 provides guidance on landscape consideration, including green infrastructure and gauging the visual impacts of energy infrastructure. NPS EN-4 within section 2.21, provides policy guidance about long term impacts and appropriate assessment as well as mitigation of pipeline features when gauging landscape and visual impacts. Additionally, dNPS EN-1 and dNPS EN-4 reflect comparable overarching approaches to assessing landscape change and securing any mitigation necessary.
- 5.7.2. Specifically for Wales, key national guidance for achieving good design including in natural spaces runs throughout PPW which is relevant to assessing landscape impacts. Although not identical to PPW, the NPPF is similar in its approach to achieving good design, which in both respects the ExA has also had full regard to.

- 5.7.3. Bearing in mind the full content of FCC's LDP it contains a range of landscape related policies and several design ambitions for the area. For example, this includes but is not limited to Policies: EN2 - Green Infrastructure; EN4 - Landscape Character; EN5 - Area of Outstanding Natural Beauty; EN7 - Development Affecting Trees, Woodland, and Hedgerows; EN9 - Development in or Adjacent to Conservation Areas; and EN11 - Green Wedges. Collectively, they reflect the aims of PPW in seeking good design and protecting local landscapes.
- 5.7.4. The Local Plan for CWCC Parts One and Two contain a number of strategic and detailed management policies applicable to Landscape Visual Impact Assessments (LVIAs). Some of the main policies featuring in Examination commentary include Strategic Policies: ENV3; ENV4; and planning management policies: DM 44 -Protecting and enhancing the natural environment; and DM 45 - Trees, woodland, and hedgerows. Acknowledging biodiversity and green infrastructure matters feature strongly in all those policies, they are recognised by the ExA to incorporate overarching good design criteria aspects embedded within them. A fuller account of all local policies considered during the Examination has been listed in Chapter 3 of this report.
- 5.7.5. For Welsh aspects of the Proposed Development, at a regional and country scale the ExA acknowledges the existence of NRW's National Landscape Character Areas (NLCA): NCLA 12: Clwydian Range; and NLCA 13: Deeside and Wrexham. In English administrative areas, the ExA recognises Natural England's (NE) National Character Areas (NCA) are applicable and these are: NCA 59 Wirral; NCA 60 Mersey Valley; and NCA 61 Shropshire, Cheshire, and Staffordshire Plain. Combined they provide important landscape and visual impact context to measure national and local policy against, which is reflected in the submitted ES.
- 5.7.6. Those relevant policy and contextual provisions aside, the ExA recognises that the UK is a signatory to the European Landscape Convention (ELC), which requires "*landscape to be integrated into regional and town planning policies and in cultural, environmental, agricultural, social and economic policies, as well as any other policies with possible direct or indirect impacts on landscape*". Accordingly, those guiding principles have been reflected in the ExA's overall assessment of the information contained in the ES.

## **THE APPLICANT'S CASE**

- 5.7.7. ES Chapter 12 (Landscape and Visual) [REP7-052] sets out the Applicant's conclusions for landscape and visual impacts. ES Appendix 12.2 LVIA Methodology Rev A [REP7-128]; ES Figure 12.2 Landscape Character Plan Rev C [REP7-219]; ES Figure 12.1 Zone of Theoretical Visibility Rev C [REP7-218]; Figure 12.3 Viewpoint Plan Rev C [REP7-220]; Figure 12.4 Viewpoint Photography Rev C [REP7-221]; and [REP7-222] Figure 12.5 Photomontages Rev C all provide important Examination context.

- 5.7.8. The guidelines for LVIA (3rd Edition) are used throughout the Applicant's assessment which also provides the basis for all cumulative assessment methodology. To establish the baseline conditions, a combination of desktop study, walkovers of the area, and the defining of Zones of Theoretical Visibility [REP7-218] were carried out. The existing baseline assessment has been split into two parts covering both landscape character and visual amenity.
- 5.7.9. Preliminary design embedded mitigation is noted as included in the OLEMP, Revision C [REP7-250] as well as the REAC Revision H [REP7-236]. During construction the provision made largely extends to tree and hedgerow retention, albeit some tree loss would occur.
- 5.7.10. The main elements of the Applicant's case were subsequently assessed by the ExA during the Examination period, as reported on below.

## **INTERESTED PARTIES VIEWS**

- 5.7.11. Most of the landscape and character impacts as assessed by the Applicant's ES were generally not opposed by FCC or CWCC. The main exception being that FCC had specific concerns about local 'Green Wedge' policy application which has similarity to 'Green Belt' designation in England. Because FCC's concern extends to recognition of all visual impacts involved in such locations the ExA has incorporated this in gauging the overall landscape and visual effects of the Proposed Development. Beyond the broad commentary received in RR (which the ExA has taken into account and all views expressed) there were no significant challenges to the findings of the ES made by other IPs.

## **EXAMINATION**

- 5.7.12. The ExA undertook a mixture of Unaccompanied Site Inspections [EV-003], [EV-004] and [EV-004a] and Accompanied Site Inspections to assist with evaluating the submissions made within the ES. The ES split the pipeline route into 6 distinct sections, and, for ease, the ExA has used those sections to refer to the line of the Proposed Development below.
- 5.7.13. From these site Inspections, the ExA was able to see that large areas of Section 1 of the DCO pipeline route boundary were predominantly urban, with the village of Elton, industrial manufacturers and the Stanlow Manufacturing Complex to the north and northwest. The east, south and south-east is largely rural, however, the M56 runs north-east to south-west of the Newbuild Infrastructure Boundary.
- 5.7.14. Section 2 is predominantly rural with more built-up areas containing residential and commercial dwellings in Thornton Le Moors, Picton, Wervin, and Backford. Chester Zoo being located to the south. Section 3 is predominantly rural. More built-up areas are located to the east and northwest within the villages of Saughall and Mollington.
- 5.7.15. Large areas of landscape within Section 4 are built up. Residential dwellings are primarily located towards the northeast, west and

northwest within the villages of Sandycroft, Mancot and Pentre. There is a large number of commercial dwellings located towards the northeast of the DCO boundary within the Queensferry and the Pentre Industrial estates. The Greenacres Animal Park and the Willow Holiday Park are also located to the south and north respectively.

- 5.7.16. The ExA also saw Section 5 of the pipeline route is predominately urban to the north and south, with residential and commercial dwellings concentrated within the outskirts of Shotton and Mancot, Ewloe, and Northop Hall. A quarry landfill is located to the south of the Newbuild Infrastructure Boundary, with the Northop Country Park Golf Club and the Ewloe Castle located to the east and north respectively. What was observed is consistent with what is specified in the ES.

### **Green Wedge/ Green Belt openness impacts**

- 5.7.17. In Section 5.3 of this report the ExA has noted that there would be one AGI (at Ince) and two BVSs (at Rock Bank and Mollington) sited within the Green Belt. Within FCC's administrative area, there would be one BVS at Aston Hill located within a Green Wedge.
- 5.7.18. The ExA has highlighted those structures constitute 'inappropriate' forms of development in such designated locations. The character of the affected locations entails prevailing greenery and unbuilt rural countryside qualities and characteristics.
- 5.7.19. Subsequently, due to their permanence, scale, bulk and nature, the structures would not preserve the openness of the Cheshire West and Chester Green Belt, nor the openness of the Green Wedge within Flintshire. The ExA recognises there would be a material reduction in openness levels in England and Wales.
- 5.7.20. FCC questioned the Applicant's assessment of its LDP Policy EN11 (Green Wedges) during the Examination and this was also examined by the ExA in it written questions and during the ISHs.
- 5.7.21. This is because the Applicant's Planning Statement originally submitted [APP-048] at paragraph 4.3.62 stated the Order Limits did not conflict with any land designated as a 'Green Wedge'. Upon further assessment the ExA agreed the Order Limits breached parcels of land designated under LDP Policy EN11. Whilst the purpose of EN11 is primarily to ensure that appropriate forms of development take place in such areas, the ExA recognised there are direct landscape and visual implications associated to making an overall assessment.
- 5.7.22. Subsequently, the Applicant's Planning Statement was updated to include appraisal against Policy EN11 at DL4 [REP4-022] to ensure local policy in Flintshire was properly assessed and in doing so the Applicant gave an overarching case for 'very exceptional circumstances' in accordance with policy expectations. Thus, the ExA notes under EN11, there is Green Wedge designation in:

- Gronant, Talacre, Gwespyr at Talacre;

- Flint/ Flint Mountain;
- Connah's Quay – Northop Hall / Ewloe / Shotton;
- Shotton/ Mancot/ Hawarden/ Ewloe;
- Hawarden/ Mancot/ Hawarden Airport/ and Saltney; and
- Sealand/ the Cheshire border.

- 5.7.23. The Applicant made the overarching case that all Green Wedge incursion was to avoid existing settlements. FCC subsequently had no objections to that rationale.
- 5.7.24. With regard to the Aston Hill BVS, the ExA is cognisant the operational phase visual effects include an impact to residential receptors to the east and footpath users to the south and west. The ExA acknowledges that visual effects will largely be localised and the potential to affect the perceived openness of the open countryside would be limited to a small geographical area. Longer range views of the Aston Hill BVS site area are evidenced to remain predominantly comprised of soft landscape elements rather than built development and there would not be a strong perception of coalescence between the existing areas of built development to the north-west and south-east of the site.
- 5.7.25. A small proportion (around 20%) of the existing field unit (approximately with a total area 3.6 hectares (ha) would be developed and experience permanent change. This includes the BVS compound (approximately 0.18ha), access track (around 0.12ha) and soft landscape mitigation (some 0.44ha). The remaining 80% of the field unit would be returned to its previous land use, pastoral agriculture.
- 5.7.26. With respect to the siting of the Ince AGI, its location was selected to ensure it is as close as practicable to a hub of local industrial emitters, notably CF Fertilisers and the Peel NRE 'Protos' development. Its location was chosen following consultation with IPs, most notably Peel NRE Limited, to ensure the Proposed Development avoids conflicts with other development proposals and aspirations concerning its facilities. Indeed, the Applicant was still in negotiations with Peel NRE at the close of the Examination with regard to securing the site for the Ince AGI (More information in regard to this matter is set out in Chapter 8 of this Report below).
- 5.7.27. The ExA accepts that it is the above ground aspects of the Proposed Development which are most relevant from a visual and landscape effect perspective. Although the AGI at Ince and the BVSs at Rock Bank, Mollington and Aston Hill would clearly affect the openness of the Green Belt/ Green Wedge, the use of mitigation planting would greatly screen the resultant landscape and visual changes as recorded in the ES.
- 5.7.28. Therefore, from a local policy point of view the ExA accepted that the ES has had due regard to landscape and visual change effects, bearing in mind all relevant local land designations. It also notes that from an English Green Belt policy landscape change perspective CWCC did not make any significant policy arguments against the Proposed Development.

## **Other important landscape and visual impacts**

- 5.7.29. With regard to other landscape and visual impacts, including the wider range of sensitive landscape receptors, the ExA has had regard to those areas specified in the ES, which include:
- Landscape Character Area (LCA) Dunham to Tarvin Plain;
  - LCA Saughall to Waverton Plain;
  - LCA Gowy Valley;
  - Dee coastal levels;
  - Shotton farmland fringe;
  - Queensferry coastal and estuary urban area;
  - Connah's Quay coastal and estuary urban area;
  - Hawarden inland urban area;
  - Farmland Fringe;
  - Estuary Edge and Valleys;
  - A55 and A494 Road Corridors;
  - Northop Hall inland urban area;
  - Wooded Valley and Parkland;
  - Northop;
  - Limestone Ridge;
  - Rolling Farmland; and
  - Valley Slopes and Plateau.
- 5.7.30. The ExA has also had regard to the full list of sensitive visual amenity receptors set out in Table 12.5 of ES Chapter 12 Landscape and Visual [REP7-052]. These extend to local footpaths and public vantages. The ExA was broadly content during the Examination that the range of sensitive receptors assessed by the Applicant is exhaustive and relevant character and visual impacts have been properly assessed.
- 5.7.31. Factoring in all Examination submissions, the ExA recognised construction activities to build the Proposed Development have potential to create temporary and permanent adverse effects on landscape features through activities such as the clearance of vegetation and boundary features to enable space for new above and below ground assets.
- 5.7.32. Consequently, some temporary short-term effects on landscape character potentially would occur from the presence and movement of construction plant and associated temporary construction infrastructure. A detailed assessment of effects on landscape character is set out in ES Appendix 12.3 - Landscape Analysis [REP7-129] with a summary of those which are likely to be significant, in the absence of secondary mitigation, shown in Table 12.6 of ES Chapter 12 [REP7-052]. The range of landscape character effects are identified as moderate adverse (or significant).
- 5.7.33. A detailed assessment of effects prior to mitigation on visual amenity for receptors during construction is set out in ES Appendix 12.4 - Visual Analysis [REP7-130] with a summary of those which are likely to be significant shown in Table 12.7 of the ES. The effects would be moderate adverse (or significant) for all sensitive receptors listed.



- 5.7.34. For operational stages of the Proposed Development, the ExA noted a detailed assessment of effects on landscape character was set out in ES Appendix 12.3 - Landscape Analysis Revision D [REP7-129]. Prior to secondary mitigation the assessment concludes that, at Operation Year 1, the greatest effect would be minor adverse (or not significant).
- 5.7.35. A detailed assessment of effects on visual amenity for receptors during operation is set out in ES Appendix 12.4 - Visual Analysis, Revision D [REP7-130] and the ExA acknowledges this was extensive. Furthermore, a summary of those receptors which are likely to experience significant effects shown in ES Chapter 12 (Landscape and Visual) [REP7-052] at Table 12.8. Significant moderate adverse effects were noted at year 1, whilst at year 15 these reduced to be not significant. This effect would be unchanged after mitigation. Bearing in mind all Examination submissions the ExA finds no reason to disagree with those findings.
- 5.7.36. During the Examination the ExA accepted ES Chapter 12 (Landscape and Visual) [REP7-052], as informed by the Applicant's LVIA Methodology [REP7-128], makes a detailed and accurate assessment of likely significant effects. This includes in relation to the AGI and BVS sites, with each having a specific landscape layout that informed the preliminary illustrative layout/ design. No IP disagreed with the Applicant's conclusions or findings in this regard, and nothing transpired during the Examination to lead the ExA to conclude landscape or visual impact would be otherwise than as set out in ES Chapter 12, or the Applicant's LVIA Methodology.
- 5.7.37. Considering contributions at hearings, as well as in ExQs, the ExA recognised that during decommissioning the removal of the AGIs, BVSs and the Alltami Brook EPBV (if taken up) would occur. The buried newbuild pipeline and existing Flint Connection to PoA Terminal Pipeline would remain in situ. Therefore, no significant landscape and visual effects would result at that stage.
- 5.7.38. Tied to landscape and visual assessment, as well as the wider design implications, the ExA was satisfied that consideration has been given to the potential visual effects resulting from climate change on the selection of species proposed for mitigation planting, as well as the management of new and existing planting, as set out in the OCEMP [REP7-242] and REAC [REP7-237].

## **EXA'S CONCLUSION**

- 5.7.39. The ExA concurs with the findings of the submitted ES and LVIA methodology documents in their assessment of likely landscape and visual effects. The Proposed Development would have a short term residual moderate adverse (significant) effect on landscape character during initial construction which would cease following completion of construction activity.
- 5.7.40. The OCEMP, together with the REAC, would ensure appropriate planting methods and on-going survival of planting would properly establish and

reach sufficient maturity by operational Year 15. The REAC [REP7-237] and OLEMP [REP7-191] set out the monitoring/ management practices to be established to enable that to happen.

- 5.7.41. Nonetheless, the ExA notes visual effects would be harmful during construction and at year 1 post construction for the most important receptors. These impacts would reduce over time with mitigation in place. The ExA agrees the OCEMP, together with the REAC, would ensure appropriate planting and that the overall impact would not be significant by year 15 of operation.
- 5.7.42. The landscape and visual effects, as well as the good design implications of the Proposed Development are considered to meet the requirements of NPS EN-1, NPS EN-4, dNPS EN-1 and dNPS EN-4. Furthermore, the ExA considers the siting, design and mitigation involved in the Proposed Development pays due regard to all relevant local planning policies and land designations applicable to FCC and CWCC administrative areas concerning landscape and visual effects.
- 5.7.43. Accordingly, the ExA finds there to be no significant conflict with those policies subject to all mitigations to be applied. The ExA also concurs the landscape and visual effects of the Proposed Development would accord with PPW, as supplemented by TANs, Welsh Government Circulars, and policy clarification letters; and the aims of the NPPF for achieving good design.
- 5.7.44. The ExA finds that there would be a reduction in the openness of the Green Wedge/ Green Belt arising from inappropriate development. This specifically relates to the AGI (at Ince) and two BVSs (at Rock Bank and Mollington) sited within the Green Belt, as well as the BVS at Aston Hill, which is located within FCC's Green Wedge designation. This would be harmful to the character and appearance of those open countryside locations. The Applicant's case for 'very special/ exceptional circumstances' triggered by respective national policy for Wales and England is considered further below in Chapter 7 of this report.
- 5.7.45. Overall, bringing all relevant points together the ExA finds that the visual effects of the Proposed Development would lead to some significant (moderate) adverse short to medium term visual harm to weigh in the planning balance to be applied. Such harm attracts negative weight in the making of the Order. The ExA attributes great weight to this issue.

## **5.8. CULTURAL HERITAGE POLICY**

- 5.8.1. NPS EN-1 contains generic advice in Section 5.8 on Historic Environment matters transferable to all NSIPs involving any of the other existing NPSs. It identifies that the construction, operation and decommissioning of energy infrastructure has the potential to result in adverse impacts on the historic environment.

- 5.8.2. Where a development site includes, or the available evidence suggests it has the potential to include, heritage assets with an archaeological interest, the Applicant should carry out appropriate desk-based assessment and, where such desk-based research is insufficient to properly assess the interest, a field evaluation. Where a Proposed Development will affect the setting of a heritage asset, representative visualisations may be necessary to explain the impact.
- 5.8.3. NPS EN-1 paragraph 5.8.14 states "*...there should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be. Once lost heritage assets cannot be replaced and their loss has a cultural, environmental, economic, and social impact.*"
- 5.8.4. Paragraph 5.8.15 goes on to say any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss. Where the application will lead to substantial harm or total loss of significance of a designated heritage asset the SoS should refuse consent unless it can be demonstrated that the substantial harm or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm.
- 5.8.5. The generic historic environment references in NPS EN-1 are taken collectively with NPS EN-4 (there being explicit reference to the historic environment in the latter). Draft NPS EN-1 and dNPS EN-4 updates (taken as a whole) carry forward the principles of heritage asset protection.
- 5.8.6. For Wales, PPW Chapter 6 (2021) outlines policies for the historic environment and planning applications in relation to archaeological remains, listed buildings, locally listed assets and historic landscapes. It also includes explanation in regard to the significance and setting of historic assets, with the most relevant policies being set out in paragraphs 6.1.10 to 6.1.29 (inclusive) of that document. Building on PPW, TAN 24: The Historic Environment – the Setting of Historic Assets gives more detailed decision-making guidance on how aspects of the historic environment should be considered.
- 5.8.7. In tandem, the legislative framework for the protection of the Historic Environment in Wales is set by the Planning (Listed Buildings and Conservation Area) Act 1990, the Ancient Monuments and Archaeological Areas Act 1979, and the Historic Environment (Wales) Act 2016. Planning Policy Wales (11th Edition, February 2021) provides the national planning policy framework for the historic environment. This is supplemented by TAN24: the historic environment (May 2017) and best practice advice and guidance published by Cadw.
- 5.8.8. For England, the NPPF and NPPG combined are not dissimilar in how the historic environment is assessed according to the advice contained in

PPW and TAN24. There is a clear presumption to protect heritage assets from harm. Using the terminology of the NPPF 'great weight' is applied to any resultant harm to any designated asset. For non-designated assets the cultural importance of those is still recognised relative to an overall balance of all considerations.

- 5.8.9. At a local level, FCC LDP policies EN8 to EN10 are relevant to gauging heritage and cultural impacts, as are CWCC LDP (Parts One and Two) policies ENV5 and DM46 to DM50. In essence collectively those local provisions broadly reflect national advice applicable in Wales and England. They aim to protect all local heritage assets of significance from harm. In doing so, they also encourage local culture to be protected and respected.
- 5.8.10. Aside from the national and local policies identified, the legislative provisions of importance to the ExA's decision includes: Ancient Monuments and Archaeological Areas Act 1979; Historic Environment (Wales) Act 2016; The Planning (Listed Buildings and Conservation Areas) Act 1990; and The Hedgerow Regulations 1997. All are applicable to the ExA's findings on the historic environment.
- 5.8.11. The ExA also notes the full range of policies and legislation referred to in ES Chapter 8 (Cultural Heritage) [REP7-044] in tandem with the above. The Infrastructure Planning (Decisions) Regulations 2010 which contain statutory measures regarding assessing heritage impacts have also been considered by the ExA.

## **APPLICANT'S CASE**

- 5.8.12. The Applicant has assessed cultural asset implications in its ES Chapter 8 (Cultural Heritage) [REP7-044]. It refers to a mixture of desk top studies, site visits and geophysical survey data in its study to evaluate heritage asset impacts. Historic England, the Landscape Institute and the Institute of Environmental Management and Assessment guidance has been used to adopt a staged approach to assessing the potential for affecting the significance of the settings of heritage assets.
- 5.8.13. A total of 208 designated heritage assets are evidenced as present within 1km of the linear Newbuild Infrastructure Boundary. Comprising of:
- 22 Scheduled Monuments;
  - 173 Listed Buildings;
  - 2 Registered Historic Parks and Gardens;
  - 1 Registered Historic Landscape; and
  - 10 Conservation Areas.
- 5.8.14. Of those, only three designated heritage assets lie within the Newbuild Infrastructure Boundary, comprising Chester Canal Conservation Area, Thornton-le-Moors Conservation Area and the Holywell Common and the Halkyn Mountain Registered Historic Landscape.
- 5.8.15. The LSE on heritage assets associated with construction are set out in ES Chapter 8 (Cultural Heritage) [REP7-044] at Table 8.6. The table

identifies a range of moderate adverse (significant) effects, with the exception of potential for Bronze Age funerary remains between Northop Hall west to Babell BVS, which is identified as large adverse (significant) within Flintshire.

- 5.8.16. However, Table 8.7 of Chapter 8 [REP7-044] refers to all residual post-mitigation effects. It notes most residual effects are to be mitigated through preservation by record or, in the case of the features associated with the moated site, fishpond and connecting channel at Elton, mitigated through preservation by record or preservation in situ through avoidance.
- 5.8.17. In evaluating all heritage impacts, the Applicant confirms there are no other significant environmental effects on sensitive historic receptors recorded in the ES during the operation of the Proposed Development. Moreover, the Applicant scoped out the decommissioning phase on the basis that buried archaeology would be unaffected by existing buried infrastructure. And the removal of the above ground infrastructure (the AGIs and BVSs) would result in a return to conditions akin to the current baseline. Therefore, those aspects in the view of the Applicant are unlikely to result in any significant effects on matters of cultural heritage.

## **INTERESTED PARTY VIEWS**

- 5.8.18. The Applicant's completed SoCGs with FCC [REP7-259] and CWCC [REP8-021] confirm the Applicants approach to the following matters was agreed by these IPs:
- baseline measurements;
  - methodology;
  - the impact assessment within ES Chapter 8 had been undertaken in line with best practice and guidance;
  - the conclusions of the impact assessment were appropriate;
  - all historic environment related mitigation proposed.
- 5.8.19. By the end of the Examination neither party was raising any concerns about the impact of the Proposed Development on matters related to cultural heritage.
- 5.8.20. Initially Cadw, the Welsh Government's Historic Advice Service, in its Relevant Representation [RR-007] noted the 'potential impact' on historic assets, as set out in the Applicant's ES Chapter 8 (Cultural Heritage) (eventually updated to [REP7-044]). It confirmed its agreement with the conclusions set out in that document that:
- having regard to assets within 3km of the proposed development, apart from the Registered Hollywell Common and Halkyn Mountain Landscape of Outstanding Historic Importance, the Proposed Development would not have a direct impact on any designated historic assets or their settings; and
  - whilst the Proposed Development would have a direct physical impact on the Registered Historic Landscape the impact on the asset's value would be minor and not significant.

- 5.8.21. In the Applicant's SoCG competed with Cadw [REP6A-010], all the matters subsequently agreed are documented inclusive of:
- Engagement.
  - The content of the ES and how it was undertaken, including:
    - the study area;
    - the baseline;
    - impact assessment methodology;
    - mitigation proposed; and
    - appropriate regard having been given to the historic environment and cultural heritage methodologies in the cumulative assessment.
  - Cultural Heritage in terms of:
    - baseline data sources;
    - trial trenching; and
    - potential impacts on historic assets, including agreement being reached on the effects of the Proposed Development on the Holywell Common and Halkyn Mountain Historic Landscape, as discussed in the Applicant's ES Appendix 8.1 Historic Environment Desk Based Assessment Part 1 [REP4-081] (current version [REP7-081]), being concluded as not significant.
  - The dDCO, including Rs.
  - Other Consents, Licences and Permits required outside of the dDCO.
- 5.8.22. It is noted, within the SoCG competed with Cadw [REP6A-010], that it requested further trial trenching, which has been committed to by the Applicant in the form of a second phase of trenching post-consent. Whilst Cadw's preference was for all of the targeted trenches from the first phase of trenching to be undertaken during the pre-determination stage, it confirmed it accepted this could be done at a later stage given access issues. As such the Applicant and Cadw agreed that the approach taken to date was sufficient to determine significance and was in line with the guidance contained in NPS EN-1.
- 5.8.23. Historic England in the SoCG completed with the Applicant [REP6A-009], noted two listed buildings in England would be temporarily affected during construction by the Proposed Development. These are:
- The Willows (Grade II), associated buildings and sundial.
  - A Grade II listed footpath guidepost.
- 5.8.24. Despite this Historic England agreed, in the completed SoCG, that both are assessed as having a minor adverse magnitude of impact during construction with the effect being temporary slight adverse (not significant). As a result, Historic England agreed in the SoCG [REP6a-009] it was content with:
- all of the mitigations within the REAC;
  - the Outline Archaeological Written Scheme Investigation (AWSI); and
  - the wording of the Applicant's dDCO.

## **EXAMINATION**

## **Designated heritage assets**

- 5.8.25. The full suite of legislation and policy for Wales and England defined in the ES was paid regard to by the ExA throughout the Examination period. The ExA notes for NSIPs overarching generic advice in NPS EN-1 defines *historic significance* 'as the sum of the heritage interests that a heritage asset holds' and that interest may be historic, archaeological, architectural, artistic, or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.
- 5.8.26. Thus, the broad generic advice of NPS EN-1 is an important consideration and can be applied as a useful starting point to assessing many aspects of the proposed DCO works in Wales and England, whilst also having regard to respective national and local policies identified.
- 5.8.27. As noted in the agreed SoCG with Historic England and Cadw, it is acknowledged that the ES assessments of impacts to the setting of various listed assets near to the proposed DCO works was largely uncontroversial during the Examination. This was primarily due to:
- the considerable distances involved between the DCO infrastructure and existing surrounding assets of historical importance highlighted in the ES;
  - the below ground aspects of the Proposed Development; and
  - the topography of the area and landscape features.
- 5.8.28. During the Examination the ExA acknowledged the advice of PPW Chapter 6 and TAN24: The Historic Environment – towards the setting of designated assets in Wales. For England, the NPPF and NPPG adopt similar underpinning approaches. The ExA did not find any reason to suggest the approaches of PPW or the NPPF/ NPPG had not been followed in the ES.
- 5.8.29. There is a clear presumption for Applicant's to recognise and protect all heritage assets from harm. The ExA is mindful that great weight is applied to any resultant harm to any designated asset. Although some temporary construction effects would be apparent no significant harm to designated assets or their settings has been raised post completion of the development with all mitigations, in accordance with statutory responses and SoCGs. For non-designated assets the cultural importance of those is still recognised by the ES, and the ExA has outlined its position accordingly.
- 5.8.30. As detailed in the SoCG agreed with Cadw [REP6A-010], the setting effects to Holywell Common and Halkyn Mountain Historic Landscape, as per referenced Appendix 8.1 Historic Environment Desk Based Assessment Part 1 [REP7-081] would not be significant. The ExA had no reason to disagree with that position, taking into account distances, topography and the changes which would be apparent.

## **Non-designated archaeological assets**

- 5.8.31. Generally, it was the archaeological implications of the pipeline route which attracted the most technical commentary in both Wales and

England. During the Examination the ExA was cognisant of the Archaeological Evaluation Report [REP4-267], submitted at DL4, which found, in Flintshire, 14 of the 26 excavated trenches revealed a total of 24 archaeological features. The earliest dateable feature from this area was found in Trench 78 and comprised a single pit which contained possible Bronze Age pottery and charred remains. Another pair of pits from Trench 58 were found to contain seventeenth to eighteenth century domestic refuse. Other undated boundary features were revealed in Flintshire, and included pits, ditches, and gullies, some of which may have represented former field boundaries or enclosures, potential domestic features, paleochannels and other natural features.

- 5.8.32. Bearing in mind the archaeological implications of the Proposed Development, and statutory responses ES Appendix 8.5 Geoarchaeological Deposit Model Report Rev A [REP7-086] was also updated during the Examination, as was the Outline AWSI Rev B [REP7-238], ES Figure 8.1 Designated Heritage Assets [REP7-215], ES Figure 8.2 Non-Designated Heritage Assets [REP7-216] and ES Appendix 8.1 Historic Environment Desk Based Assessment [REP7-081].
- 5.8.33. The ExA acknowledged during the Examination that the western-most section of the Proposed Development from Northop Hall through the Babell BVS site is located within a known prehistoric landscape dominated by funerary monuments dating to the Bronze Age. The remains of three round barrows are noted as damaged or destroyed within close vicinity to Northop Hall and within 1km of the Pentre Halkyn and Babell BVSs there are five Scheduled Monuments dated to the prehistoric period comprising numerous round barrows and the late Bronze Age to Iron Age hillfort Bwrdd y Rhyfel Camp.
- 5.8.34. Accepting there are potential Bronze Age funerary remains from Northop Hall westwards to Babell BVS, the ExA noted the ES Chapter 8 recorded there would be a moderate adverse impact on these non-designated heritage assets.
- 5.8.35. In that regard, the ExA were conscious of Table 8.7 'Summary of Residual Effects' of ES Chapter 8 (Cultural Heritage) [REP7-044], where it highlighted mitigation through preservation by record can be undertaken. The ExA agrees the controlled and recorded removal of Bronze Age funerary archaeological remains would decrease the magnitude of impact from major to moderate. Nevertheless, it also notes that even with that mitigation there would be a moderate adverse residual effect during construction as identified in the ES.
- 5.8.36. In that context, PPW/TAN24 'The Historic Environment' does not give specific advice on non-designated assets present within Wales. Although historic cultural protections are expectations clearly embedded in local and national policy and within Welsh law.
- 5.8.37. Conversely, for administrative areas within England paragraph 203 of the NPPF sets out that harm to non-designated heritage assets is a balance



considering the scale of any harm or loss and the significance of the heritage asset.

- 5.8.38. Subsequently, in the absence of any other specific guidance within PPW of from a local development plan perspective the ExA has taken a similar approach, which is also reflected in paragraph 5.8.6 of NPS EN-1.
- 5.8.39. In this case, there would be some potential risk of harm to archaeological non-designated assets, which are historically and culturally significant. Such non-designated asset harm still has importance owing to local cultural significance and attracts moderate weight against making the Order in the ExA's recommendation.
- 5.8.40. Separate to this matter, the Applicant made updates at various DLs in relation to the scoping and methodology contained within its overall assessments related to cultural heritage and related technical responses. These updates were made in response to the views of IPs and the ExA was generally satisfied with the additional information contained in these updated documents. In line with all statutory provisions triggered and the content of Welsh and English policies, the ExA evaluated the REAC, which provides the general mitigation commitments, that are then further detailed in an Outline Archaeological Written Scheme of Investigation (OAWSI) [REP7-238]. It is content these provisions accord with prevailing national and local policy in Wales and England.
- 5.8.41. The OAWSI includes areas where preservation in situ may be required, and further investigation of geoarchaeological deposits have been identified. Any archaeological investigations required would be designed and undertaken in consultation with the relevant Archaeological Advisor (representing the relevant LPA) and in accordance with an approved AWSI. The production of a WSI in accordance with the OAWSI is included as R10 of the Applicant's dDCO.
- 5.8.42. As a further examination matter addressed, the ExA specifically notes the presence of the Elton moated site, which is a Scheduled Monument adjacent to the DCO boundary, located within CWCC jurisdiction. Importantly, it was satisfied that it would be completely avoided during the construction activities proposed. This is because any works in the surrounding area to the Scheduled Monument would need to adhere to the AWSI and in consultation with the relevant Archaeological Advisor.
- 5.8.43. It has been demonstrated that a 30m safety buffer was built-in to the DCO boundary around the area of the Scheduled Monument to ensure that it is not inadvertently damaged during construction activities. This is a provision of the REAC at reference D-CH-002 [REP7-236]. Associated features located outside the scheduled monument boundary would be investigated and an appropriate mitigation strategy implemented under consultation with CWCC. None of the IPs have made any objections to that approach. The ExA has had regard to all duties triggered by way of important and relevant legislation and agrees it is an appropriate mechanism to utilise.

5.8.44. CWCC's LIR [REP1A-002], Appendix [REP1A-003]; and FCC's LIR [REP1A-005], Appendix [REP1A-006] taken collectively indicate that due regard should be given to the historic environment in line with the above commentary. But by the end of the Examination no significant concern arising from the LIR submissions remained from either CWCC or FCC.

## **EXA CONCLUSION**

- 5.8.45. The ExA is satisfied that the Applicant's historic environment assessment has appropriately identified the significance of all relevant heritage assets, impacts to their settings, and other related impacts arising from the Proposed Development in Wales and England relative to PPW/ TAN 24 and the NPPF/ PPG.
- 5.8.46. The ExA agrees that the Examination material taken as a whole provides a convincing case that the pipeline route and DCO works have been designed to avoid and minimise as far as reasonably possible all heritage assets as an overarching principle.
- 5.8.47. Neither Cadw, HE, FCC or CWCC have objected to the assessment of impacts on designated heritage assets or on the basis that potential impacts have not been properly assessed by the ES, as indicated by way of the SoCGs and wider Examination commentary. The ExA concurs there would be some minor temporary construction effects as noted by statutory consultees and the SoCGs which would not lead to significant adverse effects. And there would be no other significant effect to designated assets or their settings post completion of the Proposed Development.
- 5.8.48. Furthermore, the ExA agrees that the REAC and AWSI secured by the Applicant's dDCO would ensure effective mitigation takes place to limit any potential harm.
- 5.8.49. The ExA concurs that the range of relevant legislative, national, and local policy provisions applicable to Wales and England for protecting the historic environment towards the presence of all significant assets has been properly applied in the ES assessment. It is also content that should the development proceed, it would be undertaken in accordance with all statutory provisions, duties, and related policy triggered for the historic environment. In the light of this the ExA finds no conflict with NPS EN-1 or NPS EN-4 or the draft updates to NPSs.
- 5.8.50. The ExA agrees that post mitigation, the effects assessed within the ES on relevant heritage assets in Wales and England would be not significant. With the one exception being likely archaeological implications concerning potential Bronze Age funerary remains (close to Northop Hall west to Babell BVS). The ExA agrees there would be a likely moderate adverse effect on those non-designated archaeological assets of cultural value. In finding that outcome the ExA is content the Applicant has adopted best practice and the proposed mitigation would be appropriate.

- 5.8.51. In relation to the risks associated to non-designated archaeological asset harm identified, the ExA attributes moderate weight to the issue bearing in mind local cultural significance parameters and the assets historic value. Accepting the Bronze aged remains are within Wales (Flintshire), the ExA considered the combined advice of TAN-24 and PPW, as well as NPS EN-1, and in the absence of decision/ recommendation making advice to the contrary it has adopted a similar approach outlined by the NPPF, which highlights the approach contained within paragraph 203 of the NPPF that sets out that harm to non-designated heritage assets is a balance considering the scale of any harm or loss and the significance of the heritage asset. The ExA's balancing exercise is undertaken in Chapter 7 of this Report.
- 5.8.52. Overall bringing all relevant points together the ExA concludes that likely effect on potential Bronze Age funerary remains (accepted in the ES) is a factor that should be borne in mind and acknowledged as attracting negative weight by the SoS. That said, the advice of the NPPF for non-designated assets is applicable. Therefore, that particular likelihood of harm is accepted as limited, and as being relative to other factors in any overall planning balance to be undertaken in Chapter 7 of this Report.

## **5.9. NOISE AND VIBRATION POLICY**

- 5.9.1. NPS EN-1 requires that operational noise including ancillary activities associated with development, such as increased road and rail traffic movements, or other forms of transportation should be assessed using the principles of the relevant British Standards (BS4142, BS6472 and BS8233) where appropriate. NPS EN-4 sections 2.9 and 2.20 align to the generic advice within NPS EN-1 on the assessment of below ground noise and vibration impacts for gas.
- 5.9.2. For Wales PPW, together with the specific advice with TAN11 towards all new development that would either generate noise or be exposed to existing noise sources, is important and relevant. Additionally, the Noise and Soundscape Plan for Wales 2018-2023 sets out plans to meet the obligations described in in the Environmental Noise (Wales) (Amendment) Regulations 2009. It includes supporting national well-being goals related to noise and soundscapes.
- 5.9.3. For England, the NPPF and NPPG combined seek to protect quality of life interests linked to new development. The Noise Policy Statement for England is also relevant which sets out Government's long-term vision for the effective management of noise.
- 5.9.4. At local and county levels in the proposed DCO area: FCC LDP policies STR14 concerning environmental protection and EN18 concerning pollution and noise nuisance; as well as CWCC LP Policy SOC5 (Health and Wellbeing) and Policy DM30 (Noise) are the policies most relevant to the Proposed Development.

- 5.9.5. All of the noise and vibration effects related policies in Wales and England focus on ensuring adverse impacts to health and quality of life are avoided or sufficiently mitigated.
- 5.9.6. In tandem with all of the above policies, the ExA has had regard to principal noise and vibration related legislation, including The Control of Pollution Act (1974). It also acknowledges: The Environmental Noise (Wales) (Amendment) Regulations (2009); The Environmental Noise (England) (Amendment) Regulations (2010); and The Environmental Noise (England) (Amendment) Regulations (2018).
- 5.9.7. The ExA also recognises the range of national and local policies and overall guidance relevant to Wales and England for noise as set out in the Applicant's ES Chapter 15 (Noise and Vibration) [REP7-057]. All of which have been considered by the ExA.

## **APPLICANT'S CASE**

- 5.9.8. ES Chapter 15 gives account of the likely significant noise and vibration effects involved in the construction, operation and decommissioning of the Proposed Development. This is read against the information contained in ES Figure 15.3 Magnitude of Construction Noise Impacts Rev C [REP7-225] and ES Figure 15.2 Predicted Construction Noise Levels Rev C [REP7-224]; Appendix 15.1 Baseline Noise Data Rev A [REP7-134]; Appendix 15.2 Assumptions for Construction Noise and Vibration Rev A [REP7-135]; and Appendix 15.3 Noise and Vibration Assessment Results Rev C [REP7-136].
- 5.9.9. The ES study area considered in the noise assessment for the construction phase of the Proposed Development is 300m from the Newbuild Infrastructure Boundary. The ES refers to relevant British Standards, as advocated in NPS EN-1.
- 5.9.10. Baseline conditions are specified by the Applicant as being informed by statistical analysis of the measured sound levels during a range of monitoring periods: Daytime: 07:00 – 19:00; Evening: 19:00 – 23:00; and Night-time: 23:00 – 07:00. Tables 15.17, 15.18 and 15.19 of [REP7-058] detail the likely number of noise sensitive receptors subject to a magnitude of noise impact of either medium or high because of all construction activities during the day, evening, and night respectively.
- 5.9.11. For construction activities associated with the trenchless installation techniques, Table 15.18 and Table 15.19 [REP7-058] show that some local receptors are likely to experience an adverse noise impact of either medium or high magnitude.
- 5.9.12. The Applicant states at most crossings this activity will occur occasionally and for a short period of time. However, at some longer crossings with difficult ground conditions, the duration of the evening and night-time working is expected to last up to four weeks. Therefore, at most crossing locations no significant effect will occur, but at six locations where the estimated duration of continuous 24-hour drilling for trenchless installation is anticipated a significant adverse effect is identified.

- 5.9.13. Table 15.17 [REP7-058] indicates that some receptors in all sections the Proposed Development has been split into are likely to experience either a medium or a high adverse noise impact at some point during the construction stage. In particular Sections 3, 4 and 5 of the pipeline would have the highest number of receptors potentially affected.
- 5.9.14. The residential areas of Mollington, Sandycroft, Aston, Ewloe and Northop Hall AGI would be affected. Receptors are likely to experience either a medium or high adverse magnitude of noise impact in those locations. This would result in significant adverse effects even post mitigation measures.
- 5.9.15. The Applicant's results indicate that traffic noise levels are likely to increase by up to 1 decibel (dB), which is classified as a minor magnitude of impact. For a limited number of road links, the changes in noise levels are higher than 1dB. In these instances, the absolute noise levels are still considered to be low. Therefore, in the Applicant's view the construction traffic noise effect would be not significant.
- 5.9.16. Vibration effects during the construction and decommissioning stage are assessed by the Applicant as not being significant. The ExA had no cause to disagree during the Examination period. During operation of the Proposed Development including AGIs/ BVSs no significant change in ambient noise levels is expected at any sensitive receptor. There would be some adverse noise impacts during decommissioning which would require mitigation. Furthermore, the in-combination effects identified by the Applicant are not anticipated to change because of future climatic projections gauged in the ES.

## **INTERESTED PARTY VIEWS**

- 5.9.17. CWCC had some technical concerns regarding the drafting of R15(5) of the dDCO bearing in mind the definition of start-up and shutdown activities. The noise comments within CWCC's LIR [REP1A-002] and Appendix [REP1A-003] combined give additional context. In response, the Applicant sought to resolve this matter during the Examination by revising the wording of the dDCO and amending the Outline Noise and Vibration Management Plan Revision B [REP7-282], submitted at DL7. It includes the definition of 'start-up and shut-down activities', and associated noise and vibration assessment criteria to manage such activities. CWCC in its representation at DL8 [REP8-041a] acknowledged these revisions and confirmed it had no further concerns about the core working hours under the relevant R of the dDCO.
- 5.9.18. During later stages of the Examination CWCC agreed the overall approach to noise assessment accorded with BS 4142:2014. They also agreed that scoping out operational vibration including at AGIs and BVSs was appropriate, owing to lack of sensitive receptors.
- 5.9.19. FCC's LIR [REP1A-005] and Appendix [REP1A-006] accepted there are potential strategic noise and dust impacts arising from construction activity and during operational, maintenance and decommissioning

stages. The LIR invited more detailed discussion with the Applicant on the specific mitigation measures to be secured by the DCO during the Examination period.

- 5.9.20. Many of FCC's Examination comments were similar in nature to CWCC's. FCC did not raise any objections to the baseline assessment contained in ES Chapter 15 [REP7-057] within its LIR [REP1A-005] or related appendices [REP1A-006]. Post those submissions they concurred construction and decommissioning phases would accord with BS5228, Parts 1 and 2 (2009) and the approach of BS4142:2014. There was also broad agreement to the Applicant's approach to all mitigation.
- 5.9.21. Additionally, FCC raised during the Examination that Welsh Government were consulting on draft changes to TAN11 'Air Quality, Noise and Soundscape', with the Applicant committing to monitor this accordingly and reflect any changes in its proposed mitigation. It is recognised by the ExA in response to ExQ3 Question 3.20.1 the Applicant provided an update on this matter advising:
- "Noise and Soundscape Plan for Wales 2023-2028 is currently in draft form under consultation until 2nd October 2023. This document currently refers in Annex E – guidance to support decision making to BS 5228-1:2009+A1:2014, Code of practice for noise and vibration control on construction and open sites and also BS 4142:2014+A1:2019, Methods for rating and assessing industrial and commercial sound. Both standards have been used in the ES. Therefore, the Applicant considers that there are no direct implications."*
- 5.9.22. Accordingly, the ExA has taken those points into account.

## **EXAMINATION**

- 5.9.23. NPS EN-1 and NPS EN-4 set out how noise and vibration are to be considered, the assessments an applicant for a DCO needs to make in support of its application and give examples of mitigation that might be put in place to minimise impacts.
- 5.9.24. The NPSs referred to requiring development consent not being granted unless the decision-maker can be satisfied that the development would avoid significant adverse impacts on health and quality of life from noise, mitigate and minimise other adverse impacts on health and quality of life from noise, and (where possible) contribute to improvements to health and quality of life through the effective management and control of noise. The emerging dNPSs do not give rise to a vastly different approach. The ExA has considered the Applicant's submissions on that basis.
- 5.9.25. As section 2.20 of NPS EN-4 states *during construction, tasks may include site clearance, soil movement, ground excavation, tunnelling, trenching, pipe laying and welding, and ground reinstatement. In addition, increased HGV traffic will be generated on local roads for the movement of materials. These types of noise and vibration impacts will*

*need to be assessed.* Relative to NPS EN-4, the ExA agrees the Applicant has made a good account of all likely impacts within the overall ES.

- 5.9.26. In addition to the above, noise resulting from the Proposed Development can also have adverse impacts on wildlife and biodiversity. The ExA were conscious of this possibility during its Examination and broadly considers such effects in the biodiversity section of this chapter. In doing so the ExA found no conflict in terms of the protection of wildlife interests post mitigations, especially bearing in mind separate licensing requirements that would apply in this regard.
- 5.9.27. Factoring in all IP responses, the ExA has had no cause to disagree with the ES findings that operational effects would not be significantly adverse for human health. It was the noise and vibration effects during construction which mainly featured as the most relevant Examination theme bearing in mind the range of technical contributions from FCC and CWCC.
- 5.9.28. In light of the Applicant's total ES submissions, the ExA acknowledged during the Examination that the construction working methodologies assessed need to be treated indicatively at this stage. That is because variations in the location of construction activities and changes in techniques are expected to influence the potential for significant effects from the Proposed Development.
- 5.9.29. Therefore, with that in mind, a worst-case noise mitigation approach using a 10dB(A) figure was used in the ES at all locations. The ExA considers such an approach would act as a reasonable marker to gauge effects during construction.
- 5.9.30. An Outline Noise and Vibration Management Plan [REP7-281] (Revision B) was included in the Applicant's submission documents and where there is potential for significant adverse effects a range of mitigations has been identified, which include:
- consultation with FCC and CWCC (REAC Ref: D-NV-002 and D-NV-012);
  - providing contact details for a nominated site contact for local residents to deal with complaints and engagement (REAC Ref: D-NV-003);
  - using a selection of quiet and low noise equipment and methodologies (REAC Ref: D-NV-004);
  - requiring optimal location positioning of acoustic screening to minimise noise adverse effects (REAC Ref: D-NV-005);
  - sensitive equipment positioning on site to minimise noise disturbance (REAC Ref: D-NV-006);
  - the provision of acoustic enclosures around static plant, where necessary (REAC Ref: D-NV-007); and
  - giving commitments for less intrusive alarms, such as broadband vehicle reversing warnings, wherever possible (REAC Ref: D-NV-008).
- 5.9.31. A final version of the Noise and Vibration Management Plan, which identified specific locations and means of mitigation, is secured as part of

the REAC [REP7-236] (See: Ref D-NV-001) and will identify specific measures to be used once the working methodologies are known.

- 5.9.32. The Applicant via several submissions made during the Examination confirmed noise levels associated with the construction of the following key elements have been included in the noise modelling applied in the ES:
- open cut trenches (during the day only);
  - trenchless installation techniques (daytime, evening, and night-time);
  - centralised and localised construction compounds (daytime only);
  - AGIs and BVSs (daytime only); and
  - access and exit points for heavy vehicles (daytime only).
- 5.9.33. Additionally, it is submitted via ES submissions that the trenchless installation techniques noise assessment has been based on the use of the horizontal directional drilling method, as the reasonable worst case for noise implications. The ExA during the Examination was content with the worst-case approach applied.
- 5.9.34. Related to all of those points, it was also noted by the ExA that during the Examination there are 12 Noise Important Areas and Noise Action Plan Priority Areas located across the Study Area. These are associated with the A540 and A41 in CWCC's jurisdiction and the A55 and A494 in FCC's jurisdiction. The conclusions drawn by the ExA are therefore made in that context.
- 5.9.35. Neither FCC nor CWCC disagreed with the overall findings of the ES for noise and vibration, nor the level of mitigations anticipated. Alongside NPS guidance the ExA has borne in mind all relevant policy and legislative aspects in Wales and England in reaching its conclusions. For the Welsh administrative areas consultation of the Air Quality, Noise and Soundscape Plan for Wales 2023-2028 was identified as an emerging Plan. However, the Applicant found the conclusions set out in its ES Chapter 15 (Noise and Vibration) [REP7-057] were largely unaltered by that. As a result, the ExA is satisfied with the information available to the Examination in regard to noise and vibration and no additional information, beyond that already highlighted within the ES, was considered to be required.

## **EXA'S CONCLUSIONS**

- 5.9.36. Bearing in mind all submissions, including the LIRs submitted, the ExA:
- Finds that the Applicant has provided a comprehensive explanation of the differences between observed levels of noise and those predicted by the noise modelling utilised.
  - Is content that the noise assessment baseline conditions and the rationale for representative receptor locations utilised in the ES is i) suitably robust, ii) that the receptors otherwise considered are appropriately extensive and iii) that the overall methodology employed is reasonable.



- 5.9.37. In its findings the ExA has had due regard to the broad policy aims set out in relevant NPSs and dNPSs in gauging the impacts of the Proposed Development in relation to noise and vibration. Furthermore, the ExA has also given consideration to the:
- PPW;
  - TAN11;
  - Air Quality, Noise and Soundscape Plan 2018-2023 for Wales;
  - Noise Policy Statement for England;
  - NPPF;
  - NPPG on noise; and
  - Relevant policies of Local Plans concerning both FCC and CWCC.
- 5.9.38. The ExA is satisfied that noise issues in Noise Important Areas have been properly considered, as well as further afield. The construction phase noise and vibration mitigation measures have been explained in the ES and the delivery mechanisms proposed are well thought out. The ExA has no reason to find that the mitigation envisaged would not be effective in reducing construction impacts as far as is practicable and in a considerate way for all residents and businesses.
- 5.9.39. Nevertheless, the ExA also accepts that even with mitigation there would be significant noise disruption involved in the construction period for some receptors. The ExA agrees that the residential areas of Mollington, Sandycroft, Aston, Ewloe, and Northop Hall AGI would be affected. In those locations receptors are likely to experience either a medium or high adverse noise impact at various periods. The effect would be significant even post carefully applied mitigation measures. In highlighting that issue it is accepted best practice principles towards mitigation have been applied by the Applicant.
- 5.9.40. Therefore, there would be significant short term noise effects, curtailed to specific periods, which would be harmful to local living conditions during construction periods and consequently this weighs against the DCO being granted. The ExA attributes great weight to this issue.

## **5.10. AIR QUALITY AND EMISSIONS (WHICH INCLUDES FROM DUST, SMOKE AND STEAM)**

### **POLICY**

- 5.10.1. At UK level the Environmental Improvement Plan 2023 sets out the UK Government's visions at improving the environment in the UK. Goal 2: 'Clean Air' specifies how the government will improve air quality in the UK including the introduction of new targets and commitments.
- 5.10.2. For Wales, the Future Wales the National Plan 2040, when read in conjunction with PPW, includes objectives to support decarbonisation and improving health and the environment through minimising exposure to air pollution.
- 5.10.3. PPW at paragraph 6.75 states that the "*key planning policy principle is to consider the effects which proposed developments may have on air or*

*soundscape quality and the effects which existing air or soundscape quality may have on proposed developments". Paragraph 6.76 goes on to place a requirement on developers to address any implications for Air Quality Management Areas (AQMA), not create areas of poor air quality and seek to incorporate measures which reduce overall exposure to air pollution. Decision makers should be provided with an appropriate level of information on air quality and the proposed development, and on mitigation measures. Paragraph 6.7.13 requires careful consideration of the impacts of increased transport activity associated with development activity.*

- 5.10.4. For England, the NPPF at paragraph 186, states *"Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of AQMA and Clean Air Zones, and the cumulative impacts from individual sites in local areas . . . Planning decisions should ensure that any new development in AQMA and Clean Air Zones is consistent with the local air quality action plan"*; paragraph 188 goes on to state *"The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities"*.
- 5.10.5. NPS EN-1 requirements for air quality and emissions to air are broadly similar to PPW and the NPPF. NPS EN-4 makes direct reference to the requirements of NPS EN-1 in relation to air quality assessments. The emerging dNPS EN-1 and dNPS EN-4 do not significantly alter existing principles to assessing air quality impacts from NSIPs.
- 5.10.6. At county levels in Wales and England, FCC LDP Policy PC5: Transport and Accessibility, sets out requirements to improve the transport network across Flintshire including the use of more sustainable means of transportation. In delivering this objective FCC consider it will make an important contribution to improving air quality in the region.
- 5.10.7. CWCC LDP Policy DM31 also relates to air quality and states *"development must not give rise to significant adverse impacts on health and quality of life, from air pollution. In particular, development proposals within or adjacent to an Air Quality Management Area will be expected to be designed to mitigate the impact of poor air quality on future occupiers"*. It further states *"An air quality assessment will be required for development proposals that have the potential for significant air quality impacts, including those which: are classed as major development and have the potential, either individually or cumulatively, for significant emissions; or are likely to result in an increase in pollution levels in an AQMA; or are likely to expose people to existing sources of air pollutants"* *"Where an air quality assessment identifies an unacceptable impact on or from air quality, an appropriate scheme of*

*mitigation must be submitted, which may take the form of on-site measures or, where appropriate, a financial contribution to off-site measures.” “Applicants must demonstrate that appropriate mitigation will be provided to ensure that the new development is appropriate for its location and unacceptable risks are avoided.”*

5.10.8. The ExA is aware ES Chapter 6 (Air Quality) [REP7-041] sets out the combined legislative provisions applicable within Wales and England in Table 6.1, and the relevant policies thereafter in paragraphs 6.2.2 to 6.2.23 for gauging air quality effects. A range of important guidance is also referred to in paragraphs 6.2.22 to 6.2.24.

5.10.9. Amongst key air quality legislation, the ES Chapter 6 (Air Quality) [REP7-041] cites the WBFGA (affecting Wales) which requires public bodies to encourage the improvement of social, economic, environmental, and cultural wellbeing of Wales, as being embedded in the assessment. The ExA has considered all these aspects, as set out in the Air Quality Chapter of the ES [REP7-041], in making its final recommendation.

## **APPLICANT’S CASE**

5.10.10. Baseline information presented within ES Chapter 6 (Air Quality) [REP7-041] demonstrates that air quality at receptors in the vicinity of the Proposed Development is good with concentrations of pollutants well below the relevant air quality objectives. Diffusion tube monitoring in 2020 measured annual mean concentrations of nitrogen dioxide (NO<sub>2</sub>) well below the objective of 40µg/m<sup>3</sup> in all years. The conclusion of good air quality is also supported by Department for the Environment, Food and Rural Affairs background modelling for NO<sub>2</sub> and particulate matter (PM<sub>10</sub> (being PM<sub>10</sub>µg/m<sup>3</sup> or less) and PM<sub>2.5</sub> (being PM<sub>2.5</sub>µg/m<sup>3</sup> or less), in the 2020 to 2022 period, showing annual mean concentrations of these respective emissions to be well below the respective national objectives for that period.

5.10.11. For human receptors the sensitive locations have been identified in the ES as lying within: Northop Hall; Ewloe; Mancot; Mollington; and Elton.

5.10.12. Sensitive ecological sites are also noted at: Deeside and Buckley Newt sites SAC; River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC; Afon Dyfrdwy (River Dee) SSSI; Connah’s Quay Ponds and Woodland SSSI; and 20 Local Wildlife Sites.

5.10.13. Construction impacts of dust settling on ecological sites during trenchless installation techniques are accepted as risks. For dust soiling the worst-case area is Chester Road where there are 5 properties within 20m of the works. For ecological impacts this is the Deeside and Buckley Newt Sites SAC, located 25m from the works. Therefore, in both respects a potentially adverse significant effect is acknowledged in the ES, but one that would be controllable with mitigation.

5.10.14. Effects of impurities venting are accounted for in ES Appendix 6.2 (Impurities Venting) [REP7-079] and ES Chapter 6 (Air Quality)

[REP7-041] at Table 6.8., where maximum modelled hourly hydrogen sulphide concentration was undertaken. The results of the modelling indicate that with a 10m vent stack there is no risk of significant health effects in the vicinity of the AGIs during any of the scenarios outlined in the above-mentioned table (Table 6.8). However, the modelling shows concentrations potentially above the odour threshold of  $7\mu\text{g}/\text{m}^3$  for the following activities: Manifold venting at Ince, Stanlow and Flint AGIs; PIG launching at Stanlow AGI; and PIG receiving at Stanlow AGI.

- 5.10.15. The Applicant also assesses that the largest odour risk would occur during the venting (manifold venting) at the Ince AGI. There are no nearby residential properties within the odour zone impacted upon, except for a residential caravan park located 130m south of the Stanlow AGI, which is located at the outer edge of the odour assessment zone.
- 5.10.16. Overall, the submitted ES finds that given the proximity of sensitive receptors and the frequency of the venting operations, there is a minor (not significant) risk of odours during manifold venting at Ince, Stanlow and Flint AGI, and during PIG launching/ receiving at Stanlow AGI.

## **INTERESTED PARTY'S VIEWS**

- 5.10.17. Air quality issues were not contested by IPs, including FCC and CWCC (including LIR responses [REP1A-002], [REP1A-003]; [REP1A-005], and [REP1A-006]), in the main, during the mid to late stages of the Examination, factoring in all mitigation.
- 5.10.18. The ES Appendix 6.2 highlights that the risk of odours is removed with a stack height of at least 6m. For the benefit of all IPs, in ExQ1 [PD-014] at Q1.3.1, the Applicant was asked to explain the mechanisms associated with the stacks included in the dDCO, as the proposed stack height appeared to exceed the limitations set out in Schedule 2, Part 1, R4 (Scheme design) of the dDCO [APP-024]. This is considered further in the Examination section below.
- 5.10.19. The ExA was conscious the largest odour zone of 100m to 160m is located at Ince AGI, close to a residential caravan park located 130m south of the Stanlow AGI. These receptors may be impacted immediately after the gas is released during manifold venting, which is planned to occur once every five years. Therefore, the ExA asked if IPs had any further comments on the potential for odour to result in amenity issues or the effectiveness of mitigation. No significant concerns transpired by way of written or oral responses.
- 5.10.20. CWCC considered that the impacts on air quality including odour, as a result of emergency venting, have been adequately addressed by the Applicant. They agreed all receptors appear to have been correctly identified by the ES. Moreover, CWCC acknowledged the use of temporary stacks is proposed for venting activities. In doing so they recognised these temporary structures would ensure good dispersal of emissions and minimise any detrimental impact on residential amenity.

5.10.21. No objections from FCC were received on this topic at the close of the examination.

## **EXAMINATION**

5.10.22. Local management approaches to dealing with air quality impacts were the most significant aspects of the Examination responses on this topic. The local management approaches identified are aligned with respective national policy for Wales and England.

5.10.23. During the Examination the ExA acknowledged CWCC has four AQMAs within its administrative area and, therefore, it has been required to produce Air Quality Action Plans. These are:

- Whitby Rd/ Station Rd (declared for exceedances of the annual mean NO<sub>2</sub> Air Quality Strategy objective, 2005).
- Frodsham (also declared for exceedances of the annual mean NO<sub>2</sub> Air Quality Strategy objective, 2015).
- Thornton le Moors (declared for exceedances of the 15-minute mean sulphur dioxide objective, 2016).
- Chester City Centre (declared for exceedances of the annual mean NO<sub>2</sub> objective, 2017).

5.10.24. Conversely, FCC has no designated AQMAs within its administrative area and, therefore, no published Air Quality Action Plans.

5.10.25. With respect to potential odour control issues and wider implications of the ES conclusions. In responses to written questions posed by the ExA via [REP1-044] the Applicant pointed out that because the vent stacks are not permanent structures on the AGI sites and infrequently used, they have not been shown on the submitted plans, in the same way that other temporary maintenance equipment such as scaffolding, cranes and pigging tools are not shown. Stack heights are not restricted by the parameters table as they are temporary maintenance equipment.

5.10.26. The ExA concurs because of the infrequent and temporary nature of planned venting activities, the visual impact of the vent stacks anticipated by the ES is not anticipated to be significant. Given the infrequency of such events (venting) and the distance to the relevant receptors involved, the ExA also agrees that the use of such stacks is likely to be highly effective as mitigation. There is no substantive evidence to take a different view.

5.10.27. That matter aside, the LSE for air quality associated with construction were accepted by the ExA as largely dust problems associated with pipeline trench digging and trenchless installation techniques.

5.10.28. The ExA is also mindful that paragraph 6.7.8 of PPW lists examples of air quality mitigation measures capable of being effectively implemented which can include traffic management. That aspect of mitigation is considered in the traffic and transport section of this report.

- 5.10.29. It is also recognised that LSE also arise from dust impacts on ecological sites during earthworks associated with trenchless installation. However, it was noted that no LSE are predicted to arise during operational activity or decommissioning.
- 5.10.30. Furthermore, the ExA recognises a Dust Management Plan was included as a R of the Applicant's dDCO with measures to control emissions, approved by the Local Authority (REAC Ref: D-AQ-004) [REP7-236]. Dust site management and monitoring are also dealt with in the REAC. With a range of mitigations, the residual effects were demonstrated to not be significant by the evidence. Likewise, there were no significant in-combination climate change impacts identified for the air quality assessment or by virtue of other submissions received during the Examination period.
- 5.10.31. Bearing in mind all mitigations proposed and secured in the Applicant's dDCO the ExA were satisfied that there would be no breach of local air quality management policies for Flintshire nor the respective CWCC administrative area.

## **EXA'S CONCLUSION**

- 5.10.32. The ExA are content due consideration in the ES has been given to air quality related legislation, alongside national and local policies for Wales and England, for which there is no significant conflict demonstrated. This is in accordance with the initial host Council views expressed within CWCC's LIR [REP1A-002], Appendix [REP1A-003]; and FCC's LIR [REP1A-005], Appendix [REP1A-006].
- 5.10.33. Furthermore, the ExA is satisfied that the Applicant's baseline condition justification and methodology applied are both proportionate and reasonable. There is no substantive reason to conclude that the Applicant's consideration of the study area, receptors or baseline conditions were not appropriate for the assessment. The Applicant's mitigation package is extensive, appropriate, and able to be properly secured.
- 5.10.34. Overall, the ExA finds, subject to the provisions of the Applicant's dDCO, the Proposed Development would be unlikely to result in any significant effects in respect of air quality inclusive of dust management provision. The resultant effect would be neutral and there would be no material conflict with national or local policy in Wales or England evident. Accordingly, it concludes air quality effects do not weigh significantly for, or against, the DCO being made.

## **5.11. TRAFFIC, TRANSPORT AND WASTE MANAGEMENT POLICY**

- 5.11.1. With respect to traffic and transport implications at national and county levels for Wales and England, collectively, the ExA acknowledges the relevant content and combined provisions of:

- NPS EN-1; NPS EN-4 and the emerging dNPS EN-1 and dNPS EN-4;
  - PPW;
  - The National Development Framework: Future Wales – The National Plan 2040;
  - FCC LDP (2015-2030);
  - CWCC Local Plan Part 1 (Strategic Policies) (2015); and
  - The North Wales Joint Local Transport Plan (2015).
- 5.11.2. Additionally, ES Chapter 17 (Traffic and Transport) Rev C [REP7-061] also identifies all relevant key legislation, policies and guidance for Wales and England, which the ExA has considered alongside the full content of Chapter 3 of this recommendation report.
- 5.11.3. In measuring the Proposed Development against important and relevant policy, the ExA recognises that the infrastructure applied for would not lead to significant additional traffic levels during its operation. Therefore, it focused on the policy implications of gauging any LSE during the construction period.
- 5.11.4. The ExA examined if, and how, any significant adverse effects can be properly avoided, reduced and/or mitigated as per the generic advice found within NPS EN-1 and NPS EN-4, which is not significantly altered by way of the emerging dNPS EN-1 and dNPS EN-4. The other remaining Welsh and English policy provision taken in totality broadly accords with that approach i.e., to ensure there are no harmful impacts arising to traffic and transport interests.
- 5.11.5. For waste management implications, section 5.14 of NPS EN-1 'Waste Management' outlines government policy on hazardous and non-hazardous waste and sustainable waste management implemented through the waste hierarchy. The overall aim is to produce less waste by reusing it as a resource wherever possible, or to dispose of it in a way that is least damaging to the environment and human health.
- 5.11.6. Paragraph 5.14.6 of NPS EN-1 refers to the specific requirement to prepare a Site Waste Management Plan, which should include information on the proposed recovery and disposal of waste, along with an assessment of the impact of waste arising from the development on the capacity of waste management facilities in the area. dNPS EN-1 promotes the reused or recycling of materials on site, where possible, or ensuring materials are sourced from recycled or reused sources. Additionally, it promotes the use of low carbon materials, as well as materials from sustainable sources. It also promotes the use of local suppliers to obtain materials.
- 5.11.7. For Wales: Future Wales: The National Plan 2040, PPW and TAN 21: Waste; and Towards Zero Waste One Wales: One Planet collectively support sustainable waste management, resource efficiency and the principles of a circular economy.
- 5.11.8. For England, the National Planning Policy for Waste outlines the Government's ambition to promote a sustainable approach to resource use and management. It sets out waste planning policies should be read

alongside: the NPPF; the national Waste Management Plan for England and any relevant successor policies, guidance, or documents. The overarching NPPF environmental objective triggered here requires the planning system to contribute and enhance the natural and local environment by “*using natural resources prudently*” and “*minimising waste and pollution*”.

- 5.11.9. The NPS for Hazardous Waste; Waste Management Plan for England; Our Waste, Our Resources: A Strategy for England all combined seek to reserve stock of material resources by minimising waste, promoting resource efficiency, and moving towards a circular economy. They also outline the Government’s aims to minimise the damage caused to the natural environment by reducing and managing waste. Collectively, they incorporate actions to take now with firm commitments for the coming years and gives a clear longer-term policy direction in line with the 25 Year Environment Plan.
- 5.11.10. At local levels in Wales and England. FCC LDP policies STR15, STR16, EN19, EN23 and EN27; and CWCC LDP: ENV8 and ENV9 collectively seek to deal with waste as a resource, promoting waste minimisation and awareness, delivering sustainable waste management, and providing waste management infrastructure. Some aspects of those policies also protect minerals deposits from unnecessary sterilisation (which are considered in the next topic section).

## **APPLICANT’S CASE**

- 5.11.11. ES Chapter 17 (Traffic and Transport) [REP7-061], sets out the main arguments of the Applicant in relation to traffic and transport effects. Related to that is a variety of other technical information including ES Appendices:
- 17.1 Surveyed Traffic Data Rev B [REP7-141];
  - 17.14 Interim Worker Travel Plan Rev B [REP7-147];
  - 17.4 Baseline Traffic Data Rev B [REP7-148];
  - 17.9 Future Year Traffic Flows Rev B [REP7-157];
  - 17.8 Construction Traffic Profiles Rev B [REP7-155];
  - 17.7 Construction Traffic Flows Rev B [REP7-153].
- 5.11.12. Wider context also includes ES Figures: 17.1 Traffic and Transport Zone of Influence Rev C [REP7-226]; 17.4 Construction Traffic Routes Rev C [REP7-229]; 17.3 Personal Injury Accident Locations Rev C [REP7-228]. Additionally, the Outline Construction Traffic Management Plan (OCTMP) Rev E [REP7-240] is relied upon.
- 5.11.13. Operational effects, decommissioning and the existing Flint Connection to PoA Terminal Pipeline have all been scoped out of the Applicant’s assessment as there would be no changes to traffic. Neither CWCC nor FCC raised concern in this regard, nor did any SU opposed that decision.
- 5.11.14. There are a number of new and existing access locations proposed to facilitate the construction of the Proposed Development. ES Figure 17.5, Access Locations [REP7-230] details these. The approach to the



assessment of access locations, including definitions, is set out in the Access Principles Note, Annex D of the OCTMP [REP7-240]. Primary accesses would serve the proposed centralised compounds; AGIs and BVSSs.

- 5.11.15. Also applicable to the Applicant's assessments of impacts is ES Figure 17.6 Public Right(s) of Way (PRoW) Diversions Rev E [REP7-231] and Figure 17.7 Road Diversions Rev C [REP7-232]. The ExA has had regard to those in its overall assessment and all other relevant examination submissions providing further context.
- 5.11.16. Construction traffic routes have been identified by the Applicant based upon their suitability to accommodate Heavy Goods Vehicles (HGVs) and Light Goods Vehicles (LGVs) set out in the OCTMP. As far as reasonably practicable, HGV routes would maximise use of the Strategic Road Network (SRN). Proposed construction traffic routes for LGVs and HGVs are presented in ES Figure 17.4 Construction Traffic Routes [REP7-155]; and are summarised in Table 17.5 of [REP7-061]. The construction traffic route selection process and its subsequent management underpins the total mitigation package envisaged by the Applicant for this topic.
- 5.11.17. Chapter 14 Materials and Waste Management [REP7-055] also forms part of the submitted ES. It informs all mitigation and monitoring proposed by the Applicant.

## **INTERESTED PARTY VIEWS**

- 5.11.18. National Highways (NH) are the Statutory Undertaker responsible for the SNR in England. As such the Applicant completed a SoCG with NH [REP7-263] and, in regard to traffic and transport, agreed the following matters, as set out in Table 3-3. These included agreement on:
- The definition of HGV and LGV.
  - No primary or secondary road access being proposed on roads managed by NH.
  - The suitability of the survey data.
  - Principles of construction traffic routing.
  - Construction techniques.
  - The scope of the Applicant's assessment.
  - The impacts of the Proposed Development.
  - The impact to the SRN.
  - The temporary access to the construction compound from Chester Motorway Services Area, being located off the gyratory at the M56 J14 with no direct access onto the SRN from the services, being acceptable.
- 5.11.19. The acceptability of temporary access is caveated by NH in terms of the need for additional reviews of location plans, access and egress arrangements and impacts to the safe operation of the Chester Motorway Service Area. That said NH agrees the motorway service area is not under any lease arrangements so no landlord consents would be required, although it advises the operators of the site would need to agree to temporary operations.

- 5.11.20. NH also agree with the Applicant that the volume of traffic generated at M56 J14 during the construction phase would be minimal and that with the provision of a review of access and egress arrangements, the impacts of the Proposed Development in terms of traffic and transport would be acceptable.
- 5.11.21. Beyond the above agreed points, various technical disagreements have been apparent throughout the Examination with NH and the Applicant regarding the legalities of the DCO itself which include responses: [RR-064]; [REP1-068]; [REP1-069]; [REP2-049]; [REP4-290] [REP5-050], [REP5-051], [REP6-046], [REP6-047] [REP6-048] and [REP7-316]. Additionally, at DL8, NH made a closing submission [REP8-046].
- 5.11.22. In response to NH's submissions made prior to DL8, the Applicant submitted a King's Counsel opinion it had sought regarding NH's submissions. The Applicant's King's Counsel opinion can be found in the Examination Library at [REP8-038].
- 5.11.23. Ultimately, at the close of the Examination NH maintained its objection to the Proposed Development. However, with these primarily arose from the Applicant's proposed CA of land and rights, with NH seeking to safeguard its interests, as well as the safety and integrity of the SRN. These concerns are address by the ExA in Chapters 8 and 9 of this report.
- 5.11.24. The Welsh Government are the Highway Authority for the SNR in Wales. In its SoCG submission Rev D [REP7-264], they notably, amongst other agreements, confirmed that the Applicant is not seeking possession of operational Welsh Government Transport infrastructure, but rather would be using trenchless installation techniques at a depth which would be in the subsoil not the highway itself. Nevertheless, the Applicant would require access over tracks and accesses owned or in use by Welsh Government. Given those circumstances, Welsh Government Transport raised a query on open cut works near the A55 at Northop Hall (Work no. 44) and whether possession may be required for safety reasons.
- 5.11.25. Subsequently, the Applicant confirmed that they would not be occupying the surface of the A55 and would stay well within field boundaries. The only exception being the A55 Brookside junction at Northop Hall where the pipeline is closer to the Order Limits. If possession is required of operational Welsh Government Transport infrastructure for that latter aspect, the Parties agree that the Applicant would need technical approval should any work impact on existing highway structures.
- 5.11.26. In the SoCG with FCC [REP7-259] a list of traffic and transport matters have been agreed. The area of dispute being that the Applicant is proposing to use Public Bridleway No. 8 (309/8/10) & 309/10/30 (Deeside Lane) as the temporary construction access route from the junction with Sealand Road to the junction with Deeside Lane and continuing along Deeside Lane, as shown as Work No 30 E of the Works Plans [REP4-006]. Bridleway No. 8 & 309/10/30 (Deeside Lane) are unmade tracks which do not form part of the adopted highway network

and FCC advised they are under a duty to maintain the bridleway only to a standard for users on foot and horseback and Deeside Lane only to a standard suitable for use on foot. FCC have stated that it is not currently suitable for the usage being proposed by the Applicant (compound and construction traffic access). FCC has requested that the Applicant upgrade the Bridleway & 309/10/30 (Deeside Lane) to a tarmac surface to make them suitable for construction traffic. The Applicant does not agree or accept that resurfacing of the Bridleway & 309/10/30 (Deeside Lane) is necessary or appropriate for the construction of the Proposed Development.

- 5.11.27. FCC's and the Applicant's positions are provided within [REP6-035]. The Applicant's approach was informed by NRW who have specifically requested that the Bridleway is kept fully open so they can access the River Dee (Afon Dyfrdwy) for any maintenance/works and do not agree to any narrowing or closures of the Bridleway. The ExA responds to this issue in Section 5.12 of this report.
- 5.11.28. The ExA is aware that FCC have powers under the Highways Act to temporarily close Highways (which includes PRow) to undertake its statutory duties which include maintenance, repairs, and improvements. Where any 3rd party requires access, FCC (or any contractor on its behalf) would liaise with that party to arrange access around the works or provide suitable alternatives but it certainly would not be a reason to not undertake any improvements on the Bridleway (or any other highway/ public right of way for that matter).
- 5.11.29. In terms of CWCC, the Applicant has completed a SoCG [REP8-021]. In regard to traffic and transport the following matters were agreed:
- The definition of HGV and LGV.
  - The definition of temporary access.
  - The survey data being suitable.
  - The principles of construction traffic routing being appropriate, especially bearing in mind the mitigation measures set out in the OCTMP [REP7-240].
  - Construction techniques.
  - The scope of the Applicant's assessment.
  - EIA conclusions, in that the ES "*Chapter 17 (Traffic and Transport)* [REP7-061] and the further detailed assessment including the transport assessment [REP7-164] enable the conclusion to be drawn that the residual traffic and transport effects of the... Proposed Development are not significant."
- 5.11.30. In addition to the above, CWCC in its covering letter submitted at DL8 [REP8-041], referred to the Applicant's OCTMP [REP7-240], as well as highlighting its position set out in its DL7 submission [REP7-306] that works beneath a highway would be street works. As such it argues such works would need to be included as street works within the DCO or a separate consent, outside the DCO, under the New Roads and Street Works Act 1991 would be required. In this regard CWCC has also confirmed it has sought to modify the Applicant's Planning Performance Agreement (which was not completed by the close of the Examination)

by deleting reference to notices being provided in regard to street works. Finally, CWCC have also provided comments on Protective Provisions being discussed with the Applicant. The ExA address these matters in Chapters 8 and 9 of this report.

- 5.11.31. In respect to waste management issues, no significant matters, or concerns, that were found to be justified, were raised by IPs in RRs or WRs.

## **EXAMINATION**

- 5.11.32. The ExA acknowledged during the Examination that the majority of the new pipeline would be constructed via open trench methods with trenchless installation techniques used at complex crossings, such as at major roads, watercourses, and rail infrastructure.
- 5.11.33. For each of the pipeline sections forming the route a 'working width' would be established. This would be undertaken in sections requiring the construction of: laydown areas; site offices; security huts; removal and localised storage of topsoil; and the erection of temporary fencing for safety and security.
- 5.11.34. At a national level NPS EN-1 states that the transport of materials, goods, and personnel to and from a project, during all project phases, can have a variety of impacts on the surrounding transport infrastructure. At paragraph 5.13.2, it states that the consideration and mitigation of transport impacts is an essential part of Government's wider policy objectives for sustainable development.
- 5.11.35. The ExA was aware from Examination submissions that increased levels of traffic would be generated by the transportation of materials required for construction. Material would be delivered to the respective centralised construction compounds and stockpiled there. It would then be distributed to specific work-fronts by HGV or tractors within the agreed working widths. Construction traffic would also include specialist trenchless installation plant and equipment, worker travel, and the transportation of other bulk material.
- 5.11.36. The ExA also acknowledged that construction routes have been identified by the Applicant based upon their suitability to accommodate HGV and LGV traffic as set out in the OCTMP [REP7-240]. Indeed, Table 17.5 of [REP7-061] names each route applicable and wider technical consultees have actively engaged during scoping and consultation exercises undertaken by the Applicant.
- 5.11.37. Having regard to construction routes, at the time the ES was written the Applicant recognised that the timing of the original Welsh road building programme meant that the Proposed Development would be operational prior to commencement of construction of the Flintshire Corridor ('Red Route') scheme. However, the Welsh Government announced a freeze on new road building schemes in the country in June 2021, which included the Flintshire Corridor (Red Route) scheme [REP7-061] and it was

subsequently cancelled on the 14 February 2023, prior to the start of the Examination.

- 5.11.38. The implications of this cancellation was explored by the ExA during the Examination. In response, the underpinning construction traffic arrangements, factored into the Applicant's ES, were demonstrated as not being significantly affected by the cancellation announcement. Indeed, the Welsh Government did not make any technical submissions to the contrary. They also agreed via a SoCG [REP7-264] with the Applicant that there would be no adverse effects on the operation of any part of the Welsh Government-owned transport network because of the construction of the Proposed Development.
- 5.11.39. Additionally, during the Examination there was substantial evidence of active Applicant-led engagement with other relevant stakeholders, including CWCC and FCC Highways. However, it transpired during the Examination no other highways schemes were identified for consideration beyond those already assessed by the Applicant.

## **EXA'S CONCLUSION**

- 5.11.40. The ExA is content that section 17.2 of [REP7-061] identifies all relevant legislation, policies and guidance for Wales and England to inform the ES.
- 5.11.41. The ExA finds that the transport and traffic assessment set out in the ES is in accordance with NPS EN-1 and NPS EN-4 and the respective draft updates. It concurs no significant adverse traffic or transportation effects are likely to arise from the Proposed Development with the mitigations specified by the Applicant. It is also content that sensible and appropriate construction traffic mitigation would be available through the CTMP and CEMP secured by R5 and R6 of the dDCO.
- 5.11.42. Whilst the ExA acknowledges there would be an increase in traffic during construction, the control and management measures included in the dDCO would be sufficient to mitigate any negative impacts to an acceptable level. This includes appropriate steps to reduce impacts to air quality from construction traffic to ensure there would be no significant detriment. Thus, the overall effect in the planning balance is considered by the ExA to be neutral.
- 5.11.43. In terms of waste management, the ExA is satisfied that the Proposed Development would not result in any significant effects arising from waste generated during its construction, operation, or decommissioning. It is also satisfied that matters relating to mitigation in respect of waste can be adequately secured through the DCO and CEMP.
- 5.11.44. The ExA also finds that the Proposed Development would meet all legislative and policy requirements relating to waste management, including the principles within NPS EN-1 and NPS EN-4, and other key policies relevant to Wales and England. There are no disbenefits which weigh against the Proposed Development in this regard. Accordingly, it finds waste management effects to be a neutral consideration in the planning balance.

## **5.12. SOCIO-ECONOMIC EFFECTS (INCLUDING HUMAN HEALTH)/AGRICULTURAL LAND USE/ MINERAL WORKING IMPLICATIONS/ AND OVERALL CUMULATIVE EFFECTS**

### **POLICY**

- 5.12.1. NPS EN-1 at section 5.12 includes that “*where the proposed project has an effect on human beings, the ES should assess these effects for each element of the project, identifying any adverse health impacts, and identifying measures to avoid, reduce or compensate for these impacts*”. It also states that “*where the project is likely to have socio-economic impacts at local or regional levels, the applicant should undertake and include in their application an assessment of these impacts as part of the ES*”. Where appropriate, it considers that any assessment could include the following:
- The creation of jobs and training opportunities;
  - The provision of additional local services and improvements to local infrastructure, including the provision of educational and visitor facilities;
  - Effects on tourism; and
  - The impact of a changing influx of workers during the different construction, operation, and decommissioning stages of the energy infrastructure.
- 5.12.2. NPS EN-4 defers to NPS EN-1 in this regard and emerging dNPS EN-1 and dNPS EN-4 do not significantly move away from the above position.
- 5.12.3. For Wales, PPW encourages that the local community are involved in the development of proposals. The needs, aspirations, health, and wellbeing of all people need to be considered at the outset, and proposals should be shaped to help to meet these needs as well as create, integrate, protect and/ or enhance a sense of community and promote equality. This ties in with Future Wales: The National Plan 2040 and TAN16, which both look to advance health and well-being interests.
- 5.12.4. For England, the NPPF advocates at paragraph 92 that *policies and decisions should aim to achieve healthy, inclusive, and safe places*. Supporting economic interests is also an important core thread of the NPPF.
- 5.12.5. With respect to agricultural land use, paragraph 5.10.8 of NPS EN-1 advises Applicants should seek to minimise impacts on the Best and Most Versatile (BMV) agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5) except where this would be inconsistent with other sustainability considerations.
- 5.12.6. In relation to gauging wider land use considerations, the primary objective of the PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social,

economic, environmental, and cultural well-being of Wales. This includes regard to the appropriate use of the open countryside.

- 5.12.7. Similarly, for England, the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. It seeks to prevent new and existing development from contributing to or being put at unacceptable risk from soil or water pollution or land instability. In the main it advocates that planning decisions and local policies should ensure that new development is appropriate for its location.
- 5.12.8. Both PPW and the NPPF are broadly consistent with the generic approach of NPS EN-1 in seeking to avoid impacts on the BMV agricultural land.
- 5.12.9. At local levels in both Wales and England, FCC LDP Objective 7 requires development to create places that are safe, accessible and encourage and support good health, well-being, and equality. CWCC LDP Policy SO8 seeks similar and promotes walking and cycling.
- 5.12.10. The Well-being Plan for Flintshire, 2017-2023, in conjunction with Objective 7, is considered to meet the requirements of the WBFGA, as it aims to assist with the state of economic, social, environmental, and cultural well-being within Flintshire.
- 5.12.11. Collectively, local policies within the two host Council's administrative areas seek to encourage appropriate forms of development within the open countryside.
- 5.12.12. Above those policies referred to other legislative provisions and guidance are referenced in section 16.2 of [REP7-059], and 11.2 of [REP7-050] as part of the ES.

## **APPLICANT'S CASE**

- 5.12.13. A range of socio-economic and health factors are included in ES Chapter 16 Population and Human Health Rev C [REP7-059], which should be read alongside Appendix 16.1 Land Use and Assets [REP7-138]. Notwithstanding all assessments within [REP7-059] and [REP7-138], a bigger picture economic effect context is provided in ES Appendix B - Potential Economic Impacts of the HyNet North-West Project [REP1-046], which the ExA has also borne in mind when considering the Proposed Development.
- 5.12.14. For specific agricultural land classification and soil resource related implications, technical annexes [REP7-122] and [REP7-123] form part of the ES in tandem with Chapter 11 Land and Soils [REP7-050]. The information produced highlights that 73% of soil samples collected within the Newbuild Infrastructure Boundary are identified as BMV. In that context, Table 11.12 of [REP7-050] gives an assessment of significant impacts. The table identifies the potential loss and deterioration of BMV (Grade 1-3a) soil at above ground facilities (AGIs and BVSs) as a significant moderate adverse effect. Elsewhere and where possible along the route, magnitude of the impact would be mitigated through careful

extraction, handling and re-use of the differing agricultural soils which is to be documented in a Soil Management Plan (SMP).

- 5.12.15. An Outline SMP (OSMP) [REP7-244] has been produced to present options to manage the risk of damage to soil structure during construction and reinstatement. The findings of the OSMP would be used by the eventual appointed construction contractor as a basis for preparing the detailed construction SMP, as part of a detailed CEMP [REP6-008] prior to construction. The detailed design would then take into consideration the location of BMV soils and the alignment of the pipeline within the Proposed Development, and working areas would seek to reduce impacts to and/ or avoid these areas, as far as practicable as set out in D-LS-007 of the REAC.
- 5.12.16. Table 11.15 of [REP7-050], subsequently sets out only one significant adverse residual effect for land and soil effects associated with the construction, operational or decommissioning stages of the Proposed Development. Loss of BMV land is shown to be neutral with mitigation for the below ground pipeline elements of construction. But in the rural areas where the BVSs and AGIs are to be accommodated there is likely to be some permanent BMV land loss to the development. Thus, this is identified as a moderate adverse impact by the ES. However, with appropriate drainage at permanent above ground installations (ie the BVSs and AGIs) and sensitive receptors to prevent contamination migration to controlled waters, resultant impacts would not be significant post all mitigation.
- 5.12.17. Moreover, ES Appendix 11.3 Mineral Resource Assessment Parts 1 and 2 Rev A [REP7-120] and [REP7-121] are also relevant. All relevant Minerals Safeguarding Areas (MSAs) within FFC's and CWCC's administrative areas have been assessed in tandem with [REP7-059].
- 5.12.18. The Applicant's methodology for land use related assessments within [REP7-059] has been defined using Design Manual for Roads and Bridges guidance LA112 Population and Human Health. This is because the Applicant considers this guidance provides the best methodology available for assessing population and human health in the context of the Proposed Development.
- 5.12.19. A worst-case scenario is noted as being applied to the assessment using a 500m study area round the Order Limits of the DCO, which includes the Permanent Acquisition of subsurface areas (where the final alignment of the pipeline would be located).
- 5.12.20. The Applicant documents it has considered a range of factors on human health from construction and operation, including:
- air quality;
  - noise;
  - physical activity; and
  - employment opportunities.



- 5.12.21. Given the linear nature of the Proposed Development, the ExA notes that some 364 locally sensitive receptors are likely to experience medium to high adverse evening noise impacts and 732 sensitive receptors are likely to experience medium to high adverse night-time noise impacts. Day-time noise is likely to be associated with vibratory piling, ground compaction and in some areas, construction traffic, whilst evening and night-time noise is anticipated to be because of construction activities associated with the trenchless installation techniques.
- 5.12.22. However, it is acknowledged by the Applicant that, at most trenchless crossings, this activity would occur occasionally and for a short period of time. At some locations with difficult ground conditions, the duration of the evening and night-time working is expected to last up to four weeks. Therefore, noise impacts on human health during construction are likely to result in a significant adverse effect on human health.
- 5.12.23. The Hawarden and Ewloe Community Woodland nature reserve and the community allotments on Upper Aston Hall Lane are within close proximity to the Proposed Development. Users of these recreational facilities are likely to experience significant adverse effects through pedestrian route distance increase/ reduced accessibility, arising from construction work activity.
- 5.12.24. In terms of PRoW, Table 16.18 of [REP7-059] highlights all PRoWs potentially impacted upon. Impact on the relevant sections of the Proposed Development are listed below:
- Section 1 (of the pipeline route) has 10 footpaths, plus a National Cycle Network (NCN);
  - Section 2 has 20 footpaths, 4 Bridleways, and an NCN;
  - Section 3 has 19 footpaths, 1 Byway, NCN Routes 5, 56 and 70, Traffic Free Chester (a number of traffic free paths around Chester, including the railway and riverside paths) and the Chester Millennium Greenway (a 10.7 mile, almost completely traffic-free, cycle route, built mainly on a disused railway line);
  - Section 4 has 22 footpaths and the Wales Coast Path (a continuous coastal footpath in Wales stretching the entire length of the coastline);
  - Section 5 has 54 Footpaths;
  - Section 6 has 11 footpaths; and
  - Section 7 has 44 footpaths.
- 5.12.25. The ES highlights within Section 1 that NCN Route 5 is predominantly located on the local roads around Elton, including those adjacent to the Proposed Development. Users therefore have potential to feel intimidated by construction traffic and could face temporary delays to their journeys, due to a potential increase in the volume of construction traffic. There may also be a temporary loss in amenity value from construction work.
- 5.12.26. Table 16.20 lists significant adverse effects on PRoW in Section 2: 309/FP1/2; 309/FP3/1; 294/FP2/1 and 309/BR4/1. Table 16.15 below outlines the PRoW routes significantly affected in Section 3 namely: 211/FP4/1; 3263/BY11/1; Chester Millennium Greenway; NCN Route 5.

In Section 4 of the pipeline: PRow 303/54/10; 307/3/10; 308/1/20; 303/32/10; 308/4/10.

- 5.12.27. In Section 5, : there are 5 PRow diversions. Namely: 303/34/10; 303/25/20; 303/24/10; 303/20/10 and 303/141/10. There is also one permanent shortening of PRow 414/37/10. However, it is understood by the Applicant that this PRow is disused. No examination party disagreed with that conclusion. The construction of the Proposed Development also requires an open cut trench, which crosses a PRow (414/39A/10) temporarily severing the route for an anticipated 2-4 weeks. Thus, this would lead to significant adverse effects for Walkers, Cyclists and Horse-riders (WCH). Indeed, the combined PRow diversions and route severance would have an adverse implication for human health during construction.
- 5.12.28. No significant adverse effects were identified for WCH in Section 6 or 7 of the pipeline.
- 5.12.29. For other important land use impacts the ExA has had full regard to Appendix 16.1 – Land Use and Assets for agricultural businesses which are considered in conjunction with ES Chapter 16 (Population and Human Health) [REP7-059] for assessing all construction and operational impacts.
- 5.12.30. The Applicant’s mitigation package includes embedded design measures as well as:
- A standard working day of 10 hours 5 days per week but with some 24-hour working for the drilling phase which would last for around 4 weeks.
  - All PRowS being closed for only short periods during construction in tandem with diversions to allow levels of accessibility.
  - The provisions of the OCTMP (with final CTMP to follow secured by the DCO) for managing construction traffic appropriately, secured by R6 of the dDCO.
  - An interim Worker Travel Plan [REP7-166] to reduce journeys.
  - Temporary construction compounds would be established before commencement of the main construction works.
  - Subsequent construction activity would make use of the lowest luminosity lighting.
  - Most works would be within a fenced working area to ensure safety.
- 5.12.31. Of the tables set out in ES Chapter 16 (Population and Human Health) [REP7-059] Table 16.31 summarises the residual effects associated with the Proposed Development during construction post all mitigation. Most effects are considered to either be neutral or not significant. The exceptions being temporary disruptions to:
- users of PRow routes 309/BR4/1 and 309/FP3/1;
  - residents at Thornton Manor Care Centre and Nursing Home;
  - pupils and staff at St Oswald's School and disturbance to users;
  - users of Sandycroft County Primary School; and
  - Greenacres Animal Park.

- 5.12.32. Those elements all fall as significant adverse effects, albeit they would be temporary/short term.
- 5.12.33. All of the effects identified by the ES are not anticipated to change as a result of any in combination effects such as from climate change and no specific monitoring mechanisms are thought necessary for any human population aspect.
- 5.12.34. In relation to important overarching economic impacts [REP1-046], the HyNet Project (as a whole) is argued strongly by the Applicant to offer substantial investments estimated to be in the region of £17.7 billion and operating expenditure of £29.1 billion in the period up to 2050. The ExA subsequently further examined the nature of all underpinning aspects of the investment benefits of the Proposed Development as detailed further below.
- 5.12.35. ES Chapter 19 (Combined and Cumulative Effects) [APP-071] updated incrementally to [REP7-066] provides additional assessment context.

## **INTERESTED PARTY VIEWS**

- 5.12.36. Both FCC and CWCC were broadly content with the merits of the socio-economic case made by the Applicant. FCC has requested that the Applicant upgrade the Bridleway & PRoW 309/10/30 (Deeside Lane) to a tarmac surface to make them suitable for construction traffic which the ExA has considered.
- 5.12.37. The ExA has also considered other more detailed submissions made by IPs relating to specific land areas and businesses in this Recommendation Report. In doing so, the ExA recognises the full range of impacts which would be apparent to residents and businesses (including agricultural businesses) operating in Wales and England during construction and any future operation of the Proposed Development.
- 5.12.38. The Applicant set out a range of potential risks in its ES but concluded that there would be no LSE from major accidents or due to safety and security matters. Concerns were raised by IPs during the Examination including the possibility of an explosion and the potential security risks at working areas during construction.
- 5.12.39. CF Fertilisers Relevant Representation [RR-081] indicated that the new pipeline and the AGI terminal at Ince is within very close proximity to land which is the subject of a Control of Major Accident Hazards (COMAH) impact zone. However, the Applicant notes the CF Fertilisers' Ince site is no longer subject to a COMAH impact zone (this site is located adjacent to the Ince AGI) and this is agreed in the Applicant's SoCG completed with CF Fertilisers [REP4-255]. The Applicant has also evidenced it has regularly engaged with the HSE during the design process to discuss the Proposed Development. It advises health and safety measures will be integrated into the design and this will ensure these interests are adequately secured in this respect. The HSE have not raised any objections in this regard, [REP7-314] and [REP8-045].

- 5.12.40. LFoE's position at DL7 [REP7-315] and during Hearing attendance, is relevant. LFoE cite the well-being goals (within the WBFGA). This extends to a prosperous and a globally responsible Wales. LFoE's position, in essence, is that the spirit of WBFGA goals is not embraced by the Proposed Development, owing to the high-level business model delivery approaches by 'Eni' (the Applicant's alleged parent company) as well as various technical aspects linked to that.

## **EXAMINATION**

### **Human Health/Land Use (including BMV)**

- 5.12.41. In relation to FCC's request that the Applicant upgrade the Bridleway & PRoW/footpath (309/10/30) Deeside Lane to a tarmac surface to make them suitable for construction traffic. The Applicant rejected that resurfacing of the Bridleway & 309/10/30 (Deeside Lane) is necessary or appropriate for the construction of the Proposed Development, as doing so would be an onerous requirement of them.
- 5.12.42. The ExA has looked at the arguments for making such improvements throughout the Examination period and agrees with the Applicant's case that to make such provision would not be a necessary or reasonable step. The main reason being that this would go well beyond the effects on using the Bridleway and Deeside Lane, when linked to the Proposed Development. Accordingly, the ExA is of the opinion it would be unnecessary and unreasonable to place such a burden on the Applicant.
- 5.12.43. The ExA acknowledged during the Examination that Section 1 of the pipeline route would involve permanent losses of agricultural land in: Plot No. 3-03 (Work No. 57A) used for dairy farming; Plot No. 3-18a (Work No. 57B) used for livestock farming; as well as Plot No. 5-01 (Work No. 57C) and Plot No. 5-07 (Work No. 57D), both used for keeping horses, in Section 2. In Section 3 there would be permanent loss of agricultural land for Plot No. 9-15 (Work No. 57G) used for dairy farming. And in Section 5 of the pipeline route - permanent loss of agricultural land in Plot No. 17-43 (Work No. 57I) used for livestock farming.
- 5.12.44. Accounting for the range of permanent losses involved, the Applicant argues in the ES that the overall function of all farming businesses would still be able to continue post completion of the Proposed Development. It acknowledges there would be some loss of BMV agricultural land where the AGIs and BVSs are proposed to be located but considers when applying the advice of 5.10.8 of NPS EN-1, which seeks to minimise impacts on such areas, this resultant adverse effect is unavoidable. In addition to this the Applicant argues it has applied an effective avoidance and mitigation package along the pipeline route to avoid any other loss of BMV.
- 5.12.45. In that regard, Section 16.10 of ES Chapter 16 outlines all mitigation and enhancement measures. It identifies that compensation for the operational stage would be implemented for all agricultural land where there is a finding of significant adverse effects, indicating that the operational viability of agricultural businesses could be harmfully

affected. These measures would primarily be in the form of financial compensation given the significant adverse effects would arise from the impact. This is also listed in the REAC [REP7-236].

- 5.12.46. The Applicant made submissions to the ExA questions that if there is a breach of the Agri-Environmental scheme caused by the Proposed Development, then the Applicant would expect the signatory of the scheme to be responsible for notifying the relevant managing organisation of any breaches. The Applicant would also provide support and advice to the signatory as required. Any losses because of the breach would also be assessed on a case-by-case basis, the Applicant would be responsible for compensation to the signatory of the scheme where proof of loss is provided. The Applicant would seek to agree compensation of any breaches via voluntary agreement, which is a matter which sits outside the consideration to the DCO applied for.
- 5.12.47. The ExA has had full regard to Appendix 16.1 – Land Use and Assets [REP7-138] and the range of effects identified. This includes agricultural land holdings that have the potential to experience operational effects as a result of the Proposed Development, prior to any mitigation, located within the 500m of the study area for the relevant section the Proposed Development that the holding falls within. (Plot Nos. 3-03; and 3-18a (section 1 of the pipeline); Plot Nos. 5-01; and 5-07 (section 2 of the pipeline); Plot No. 9-15 (within section 3); and Plot No. 17-43 (within section 5) all experience moderate adverse (significant) effects, whilst Plot Nos. 19-4a and Plot No. 19-4b (within section 5) very large adverse (significant) effects.
- 5.12.48. Accordingly, all in all, the ExA had no reason to disagree with the content of Table 16.31 nor Table 16.32 of [REP7-059], which summarise the residual effects associated with the Proposed Development, after construction and operation.
- 5.12.49. Community assets Thornton Manor Care Centre (section 1 of the route); Five Villages Hall and St Oswald's Primary School (within section 2) would experience adverse effects ranging from moderate to large; Saint Francis Anglican Church and Sandycroft Primary school (section 3); Aston Hill BVS Care Home (section 4), owing to reductions in amenity levels arising from temporary construction activity even with mitigation.
- 5.12.50. In terms of other private properties: Cryers Lane (section 1 of the pipeline) Grove Road (section 2) would result in significant adverse effects; Deeside Lane; Roslin Close; Moor Lane (section 3) Lower Aston Hill BVS Lane; Llys Gary Speed; Moorfield Court; Moorfield Road; Mountfield Road; Hillfield Road and The Barnyard; Church Lane; Brookside; Pinfold Lane (section 4) Highfield Hall (section 5)– all would experience significant adverse effects from temporary construction activity impacting on accessibility and amenity. As would properties at Cornist Lane; Nant Road; Lleprog Lane; Allt Y Chwiler (within section 7). Although this would be reduced with mitigation applied it would still be a harmful temporary impact.

- 5.12.51. In terms of the likely construction impacts on existing local businesses, the very high sensitivity of the Protos development site and Encirc Glass (section 1 of the pipeline), would lead to moderate adverse (significant), temporary, effects which have been identified in the ES. Businesses within section 4 Psyche Studios; Intertek; Recycling Solutions; Chester Composites; Gorilla Access Services Ltd would be significantly adversely but temporarily impacted upon as well.
- 5.12.52. There is a NCN noted in the study area for section 5 of the pipeline route. There would most likely be a temporary loss in amenity value for WCH from construction work disturbance. Therefore, moderate adverse (significant), temporary, short-term effects have been identified on WCHs is anticipated. The ExA has noted the range of all the other adverse effects identified in ES Chapter 16.
- 5.12.53. The ExA acknowledged there would be a range of significant short term temporary adverse effects to WCHs using other PRoW from construction activity and in some cases increased route length diversion.
- 5.12.54. Overall, the adverse population and human health effects gauged by the ES were broadly agreed upon on by all relevant technical parties active in the Examination. The ExA did not identify any significant inconsistencies or omissions to take a different view.

*Socio-economic aspects/ mineral working implications*

- 5.12.55. Those points aside, all the stated socio-economic betterments of the Proposed Development evidenced were interrogated by the ExA. Employment opportunities from construction work linked to the Proposed Development were acknowledged by the ExA during the Examination as having significant wide ranging positive societal effects as per the conclusions of the ES. However, the ExA asked various questions regarding more detailed implications. In particular, ExQ Q1.16.1 to Q1.16.6, amongst others [PD-014]; [PD-022] and [PD-027] and those at Hearings.
- 5.12.56. The Applicant made submissions (including [REP1-044]) about maximising economic benefits of the Proposed Development in relation to supply chain effects. It has engaged with some 250 local and national organisations including various levels of government and local partnerships.
- 5.12.57. In accordance with the North Sea Transition Deal, released by the North Sea Transition Authority (previously the Oil and Gas Authority), the Applicant gives evidence that it is promoting a local content requirement within the invitation to tender for construction contractors bidding for the pipeline contract. Tenderers would be required to include a section on 'local content' within the bids, which would be considered as part of the technical and commercial evaluations prior to any contract award.
- 5.12.58. In addition, the HyNet Consortium (of which the Applicant is a key member) has worked collaboratively under the University of Chester's leadership alongside the Engineering Construction Industry Training

Board to address provision for high skill job opportunities for the local community.

- 5.12.59. Both of the above-mentioned bodies were highlighted as developing a pilot HyNet apprentice programme in the local area. In tandem, the Applicant has proactively met with local education providers to discuss the development and the opportunity for interaction in the project and/ or with the Applicant's existing outreach programmes: St Oswald's CE Primary School, Chester; Sandycroft CP School, Sandycroft.
- 5.12.60. HyNet is noted as seeking similar discussions with educational institutions located adjacent to the pipeline route: such as Hawarden High School, Hawarden; and Penarlag CP Primary School, Hawarden. The Applicant's existing outreach programmes would also provide educational opportunities to schools across the North Wales region. This is provided through the provision of environmental education (specifically coastal) and the DangerPoint education centre, which provides life skills teaching and has also recently developed a further tour focussing on sustainability and climate change in which reference is made to the HyNet Project and CCS.
- 5.12.61. Those points aside, bearing in mind the overarching need case arguments made by the Applicant [APP-049], the ExA accepts there are pivotal bigger picture socio-economic positive impacts associated with the Proposed Development. These would occur from its real-world delivery rather than any Rs secured by the DCO.
- 5.12.62. Having full regard to the Applicant's economic case [REP1-046], it is noted the majority of the HyNet NW construction spend would be sourced in the North-West (90-100%), whilst equipment spend would be more dispersed.
- 5.12.63. The ExA acknowledges that spend on the HyNet Project would result in the potential creation of around 144,287 job years for the North-West and 289,377 for the UK to 2050. This translates to annual job creation of some 4,509 jobs for the North-West region and 9,043 jobs for the UK as a whole [REP1-046].
- 5.12.64. Peak annual employment opportunities are estimated by the Applicant [REP1-046] to be 11,522 jobs in the North-West and 23,167 for the UK. Overall average annual job creation is estimated to be 5,979 jobs for the North-West and 11,259 for the UK. The ExA acknowledges the level of work opportunity this represents offers very great socio-economic benefits both regionally and nationally.
- 5.12.65. Inward investment is a further factor in gauging economic case merits. The Gross Value-Added figures referred to by the Applicant are £16.9 billion for the North-West and £30.5 billion for the UK, respectively [REP1-046].
- 5.12.66. The Applicant through its Examination submissions has demonstrated that it used appropriate analysis taken from UK hydrogen economy referring to H21 Leeds City Gate; Liverpool Manchester Hydrogen Hub;

and East Coast UK CCS to inform its analysis and economic impact assessments.

- 5.12.67. The ExA acknowledges the HyNet Project, as a whole, offers a generational opportunity to deliver extensive decarbonisation of the economy and at the same time generate very great economic benefits. The Proposed Development would be inextricably linked to ensuring the wider HyNet Project aims detailed by the Applicant. Therefore, the overall broader benefits referred to by them are appropriate to have in mind when assessing the overall need case put forward and the related developments triggered by the Proposed Development itself.
- 5.12.68. As the ExA we agree that the range of overall Hynet Project economic benefits regionally and UK wide are substantial and clearly ones which should carry very great weight in any decision made by the SoS.
- 5.12.69. Separate to that matter, during the Examination period (as noted in the earlier interested party section above) it was noted that CF Fertilisers' Relevant Representation [RR-081] indicated that the new pipeline and the AGI terminal at Ince was in close proximity to land that is the subject of a COMAH impact zone. Following questioning by the ExA, the Applicant advised the CF Fertilisers' Ince site was no longer subject to a COMAH impact zone. Furthermore, the Applicant acknowledged that accounting for due emergency planning, it would engage with the operators of any COMAH sites near the Proposed Development. The Applicant has regularly engaged with the HSE during the design process to discuss the Proposed Development and safety measures integrated into the design. Considering the responses from the HSE, the ExA are content safety interests would be respected, bearing in mind all legislative requirements and in the absence of any further submissions from CF Fertilisers at the end of the Examination period to conclude otherwise.
- 5.12.70. The presence of the MSA was also acknowledged by the ExA, as was Local Plan policy protecting such sites. Factoring in ExA questions and examination submissions, little dispute transpired about the LSE to those being different to that assessed in the ES. That is because of existing development already sterilising such areas or the impacts to MSAs being otherwise inconsequential. No part of the total Examination material received has led the ExA to take a different view. CWCC LIR [REP1A-002], Appendix [REP1A-003]; and FCC LIR [REP1A-005], Appendix [REP1A-006] taken collectively made direct reference to the local importance of MSA's in any evaluation. However, by the end of the Examination no significant concern arising from the LIR submissions remained in regard to this matter from either host Council.
- 5.12.71. In terms of overall in-combination and cumulative effects. No additional mitigation measures have been identified as being required in Section 19.9 of [REP7-065]. No significant in-combination and cumulative effects have been identified in the ES or were revealed during the Examination period. The ES assessment has not identified the need for any additional monitoring requirements beyond that stated in ES technical Chapters 6 –



18. The ExA did not find any good reason to reach a different conclusion to the ES.

## **EXAs CONCLUSIONS**

### **Socio-economic effects/ land use (including BMV agricultural land loss)/ minerals workings)**

- 5.12.72. The ExA agree that the Applicant has demonstrated consideration of the WBFGA within the submitted Planning Statement [REP4-022]. It is satisfied the Applicant has accurately assessed adverse Population and Human Health effects within the findings of ES Chapter 16 Rev C [REP7-059], using appropriate methodologies and study area.
- 5.12.73. It is also accepted by the ExA there would be a range of temporary but significant adverse construction effects for residents and businesses, to factor by the SoS in any decision on the DCO applied for.
- 5.12.74. As ExA we find the Applicant has avoided and mitigated those adverse effects to local populations, as far as practicable, during construction periods as demonstrated in the ES through a suite of mitigation measures. The range of adverse impacts involved in the Proposed Development would extend to permanent loss of land for agricultural businesses. The ExA accepts there is a range of harms identified in [REP7-059], which carry negative weight in the ExA's overall recommendation.
- 5.12.75. Additionally, the ExA accepts that the Applicant's dDCO does not prevent landowners access over the actual below ground pipeline aspects of the Proposed Development within their landholding post construction. The purpose for which the Applicant would take access does not affect that position. The Proposed Development is designed to allow access by farm machinery and traffic currently known to use the land. However, if very heavy machinery was needed, for example for mining land, it is acknowledged that use would be restricted without appropriate consent where it could damage the pipeline. The AGIs and BVSs would not be able to be accessed by other parties during construction or once built. They would be fenced off to prevent access.
- 5.12.76. The ExA accepts that the OSMP [REP7-244] and the final SMP subsequently used to base the final CEMP upon would manage the risk of damage to soil structure during construction and reinstatement, as far as practicable. The detailed design would then take into consideration the location of BMV soils and the alignment of the Newbuild CO<sub>2</sub> Pipeline, and working areas would seek to reduce impacts to and /or avoid these areas.
- 5.12.77. However, even with all mitigation secured by the DCO there will be some permanent loss of BMV, primarily because of the rural land areas needed to construct the AGIs and BVSs using agricultural land.
- 5.12.78. Consequently, the loss of some BMV land to accommodate the Proposed Development is an unavoidable adverse impact gauged by the ES. The

ExA agrees with this finding and therefore it is a factor which weighs against the DCO being made. Given the quantum of land involved is low and BMV land would otherwise remain available for agricultural purposes the ExA attributes moderate weight to this issue.

- 5.12.79. Bearing in mind all the mineral resource impacts identified in ES Appendix 11.3 Mineral Resource Assessment Parts 1 and 2 Rev A [REP7-120] and [REP7-121]. The ExA concurs there would be no significant adverse effects to MSAs which count against the Proposed Development. This is because where MSAs are present along the pipeline route they are shown to be either already sterilised by existing circumstances or a minimal effect (not significant) would otherwise be observed.
- 5.12.80. The demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation, holds great weight in favour of the DCO being made.
- 5.12.81. Overall, aside from the expected adverse effects to residents, BMV and businesses identified above, the overarching socio-economic benefits involved in the Proposed Development are considerable in magnitude. Those socio-economic benefits are connected to the Applicant's overall need case and related climate change benefits, but even taken individually the economic benefits (direct and indirect/ including economic growth and job creation) evidenced by the Applicant weigh heavily in favour of supporting the DCO.

#### **Human health hazards/ safety risks**

- 5.12.82. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 provide that significant health and safety risks relevant to a Proposed Development need to be considered when seeking consent for it. NPS EN-1 states that applicants seeking consent for projects should also contact the HSE.
- 5.12.83. The Applicant set out a range of potential risks in its ES but concluded that there would be no LSE from major accidents or from safety and security matters. Concerns were raised by IPs during the Examination including the possibility of an explosion and the potential security risks at working areas during construction. The HSE have not raised any objections nor were there any significant concerns raised by any other statutory technical consultees.
- 5.12.84. In response to a range of IP comments about health and safety aspects, the Applicant [REP8-035] has confirmed the risk of corrosion, in relation to CO<sub>2</sub> pipeline systems, is known and well understood. In the case of the Proposed Development, the CO<sub>2</sub> gas stream generated by the emitter facilities and being transported in the CO<sub>2</sub> pipelines would be required to comply with precisely defined limits covering all operating parameters, including its composition.

- 5.12.85. The CO<sub>2</sub> gas would be dry with a moisture content expected to be maintained below a specified threshold and specified limits for other impurities. Compliance with those limits would be ensured through continuous monitoring and the process controlling the CO<sub>2</sub> stream entering the pipeline.
- 5.12.86. Additionally, the Applicant made reference to a substantial body of existing expertise for pipeline CO<sub>2</sub> transportation which includes research and operational experience from the CCS and Oil and Gas industries. This is embodied in a range of codes, standards, guidance, and papers published by industry and regulatory bodies (including UK HSE, British Standards Organisation, International Standards Organisation, and the Energy Institute). The design and operation of the pipeline would be sought to comply with these and other applicable codes, standards, and relevant guidance [REP8-035].
- 5.12.87. Overall, the ExA finds appropriate and adequate mitigation would be secured in the DCO and there would be no significant effects arising from accidents, safety, or security matters. The ExA concludes that any safety risk matter should be given neutral weight in the planning balance.

#### **Overall cumulative effects from the Proposed Development**

- 5.12.88. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 require assessments of cumulative effects to be made when applications for development consent are made. The Applicant's detailed ES assessment indicated there was limited potential for cumulative effects.
- 5.12.89. During the course of the Examination the ExA asked several questions in relation to cumulative assessment matters informing the ES. The Applicant's response [REP2-038] is important.
- 5.12.90. It is noted by the ExA that the Applicant indicated a twin track method in that two separate planning applications will be submitted to FCC under the Town and Country Planning Act 1990: one for the Point of Ayr (PoA) Terminal and Foreshore Works and another for the three BVSs.
- 5.12.91. The ExA also recognised the content of ES Chapter 19 Combined and Cumulative Effects [APP-071] as well as Chapter 19.1 – Inter-Project Effects Assessment Rev A [APP-172] and Chapter 19.2 – Intra-Project Effects Assessment Rev A [APP-173]. The ExA asked all IPs if there are any projects identified as under construction that are expected to be completed before construction of the DCO Proposed Development, which have been excluded from the Applicant's assessment at Step 2 (as per Tables 2 and 3 in Appendix 19.1 - Inter-Project Effects Assessment, Volume III [APP-172]). The ExA has received updates from the Applicant, CWCC and FCC during the Examination to inform the ES in this regard [REP7-185].
- 5.12.92. The Applicant responded that a continual review of prospective other developments after the submission of the ES (2022) was not proposed as part of its methodology. The Applicant considers that, when reviewing

other developments, a line should be drawn at a point in time to enable the assessment of cumulative effects to be completed. This is provided for in the Planning Inspectorate's Advice Note Seventeen: Cumulative Effects Assessment (August 2019) which states in section 3.4.9 that it "*is understood that applicants are required to stop assessment work at a particular point in time in order to be able to finalise and submit an application*".

- 5.12.93. From the Applicant's perspective it could only take into account information in the public domain and available to it. The Applicant consulted the public and all consultees on the long list of developments presented in the Preliminary Environmental Information Report during Statutory Consultation (found within the HyNet DCO Consultation Report [APP-031]). CWCC was provided with the Preliminary Environmental Information Report and did not identify any additional developments that should be considered (refer to the HyNet DCO Consultation Report [APP-031]). The Applicant has continued to consult with both authorities regularly, as recorded in the relevant SoCGs [REP7-259] and [REP8-021].
- 5.12.94. The Applicant accepted identified development 22/03693/FUL, Encirc Glass, would meet the criteria for inclusion in the long-list of the Inter-Project Effects Assessment (Table 2 of Appendix 19.1 of the ES [CR1-044]). The development is of a proximity and scale to have the potential for significant Inter-Project Effects and therefore would be scoped into the short-list for the Inter-Projects Effects Assessment (Table 3 of Appendix 19.1 of the ES [CR1-044]). However, as the application was received by CWCC on the 30 September 2022, this falls outside of the scope of the application ES assessment of Inter-Project Effects, as stated in the paragraph above. Notwithstanding the above, the Applicant has voluntarily engaged with Encirc Glass via SoCG discussions [REP6-026] regarding the interaction between the two developments (which is primarily related to site access) and this is being handled via commercial discussions between the parties.
- 5.12.95. No changes to the conclusions of the significant effects of the assessment are anticipated as a result of the inclusion of other developments noted during the course of the Examination.
- 5.12.96. Furthermore, the ExA drew the Applicant's/ IPs' attention to the content of Planning Inspectorate Advice Note 9: Rochdale Envelope. This advice note affirms the established principle that:

*"The ES should not be a series of separate unrelated topic reports. The interrelationship between aspects of the proposed development should be assessed and careful consideration should be given by the developer to explain how interrelationships have been assessed in order to address the environmental impacts of the proposal as a whole. It need not necessarily follow that the maximum adverse impact in terms of any one topic impact would automatically result in the maximum potential impact when a number of topic impacts are considered collectively. In addition, individual impacts may not be significant but could become significant*

*when their interrelationship is assessed. It will be for the developer to demonstrate that the likely significant impacts of the project have been properly assessed.”*

- 5.12.97. The ExA does not consider there would be any significant cumulative effects arising from the construction or operation of the Proposed Development given the findings of the ES and the mitigations which are secured, when gauging all impacts that may lead to any potential harm. The ExA in forming its view has considered the submissions of LFoE made during the Examination. However, many of its submissions refer to wider 'HyNet Project' impacts relating to Environmental Impact Assessment and HRA matters, which go beyond the remit of this Examination. The Proposed Development is considered to stand apart from the wider HyNet Project and was not considered to form part of a wider multi-phase large-scale project by the Planning Inspectorate at the 'Acceptance' stage of the Application. No evidence has been entered during the Examination that leads the ExA to a different conclusion in this regard.
- 5.12.98. Nonetheless, the ExA does accept there are clear wider direct/indirect environmental and socio-economic benefit overlaps when looking at bigger picture arguments mentioned in the Applicant's overall need case. Such overlaps are already acknowledged when assessing need in the ExA's recommendation as stated above.
- 5.12.99. The ExA finds that the ES provides information on how the effects of the Applicant's Proposed Development would combine and interact with the effects of other development (including projects for which consent has been sought or granted, as well as those already in existence) and that information on the accumulation of, and interrelationship between, effects might affect the environment, economy, or community as a whole. The Proposed Development complies with NPS EN-1 in this respect and with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA regulations).
- 5.12.100. None of the IP submissions made have led the ExA to conclude there are any justifiable concerns related to cumulative effects not being properly assessed in the ES. The ExA has considered the initial information contained within CWCC LIR [REP1A-002], Appendix [REP1A-003]; and FCC LIR [REP1A-005], Appendix [REP1A-006], as well as all Examination updates in reaching that conclusion.
- 5.12.101. With respect to the offshore storage of CO<sub>2</sub>, which is outside the scope of the Proposed Development, the Applicant confirmed that its work is being overseen by a competent regulatory body, the North Sea Transition Authority.
- 5.12.102. The ExA is also satisfied that the decommissioning of the existing pipeline and the Proposed Development would be subject to adequate controls so that it would not result in significant cumulative effects.
- 5.12.103. Thus, the ExA concurs there would be no significant cumulative effects for any aspect of the Proposed Development which weigh against it.

Accordingly, the Proposed Development would be in accordance with relevant legislative and policy requirements for both Wales and England.

## **6. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT**

### **6.1. INTRODUCTION**

6.1.1. This chapter sets out the Examining Authority's (ExA's) analysis and conclusions relevant to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State (SoS) for the Department of Energy Security and Net Zero (DESNZ), as the Competent Authority, in performing their duties under The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').

6.1.2. This chapter is structured as follows:

- Section 6.2: Findings in relation to Likely Significant Effects (LSE) on the UK National Site Network and other European sites<sup>7</sup>
- Section 6.3: Conservation Objectives for sites and features
- Section 6.4: Findings in relation to Adverse Effects on Integrity (AEoI)
- Section 6.5: HRA conclusions

6.1.3. In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European sites and no reasonable scientific doubt remains<sup>8</sup>.

6.1.4. Policy considerations and the legal obligations under the Habitats Regulations are described in Chapter 3 of this report.

6.1.5. The ExA has been mindful throughout the Examination of the need to ensure that the SoS for the DESNZ has such information as may reasonably be required to carry out their duties as the Competent Authority. It has sought evidence from the Applicant and the relevant Interested Parties (IPs), including Natural England (NE) and Natural Resources Wales (NRW) as the Appropriate Nature Conservation Bodies (ANCBs), through our written questions (ExQs) and Issue Specific Hearings.

### **Report on the Implications for European Sites and Consultation**

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<sup>7</sup> The term 'European sites' includes Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), proposed SACs, potential SPAs, Ramsar, proposed Ramsar, and any sites identified as compensatory measures for adverse effects on any of the above. 'UK National Site Network' refers to SACs and SPAs belonging to the United Kingdom already designated under the Directives and any further sites designated under the Habitats Regulations.

<sup>8</sup> CJEU Case C-127/02 Waddenzee 7 September 2004, Reference for a preliminary ruling from the Raad van State (Netherlands) in the proceedings: Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij

- 6.1.6. A Report on the Implications for European Sites (RIES) [OD-008], which compiled, documented, and signposted HRA-relevant information provided in the Development Consent (DCO) application and during the Examination up to Deadline (DL) 6 (4 July 2023) was compiled by the ExA. The RIES was issued to set out the ExA's understanding on HRA-relevant information and the position of the IPs in relation to the effects of the Proposed Development on European sites at that point in time. Annex 1 Tables A1.1 to A1.9 summarise the ExA's understanding of the Applicant's screening exercise and AEoI assessment, and agreement with ANCBs at that time, for all European sites considered in the HRA.
- 6.1.7. Consultation on the RIES took place as part of the Examination between 1 August and 5 September 2023. Comments were received from the Applicant [REP7-289], NE [REP7-317] and NRW [REP7-318] at DL7 (5 September 2023). These comments have been taken into account in the drafting of this chapter.
- 6.1.8. The ExA's recommendation is that the RIES, and consultation on it, may be relied upon as an appropriate body of information to enable the SoS to fulfil their duties of consultation under Regulation 63(3) of the Habitats Regulations, should the SoS wish to do so.

## **Proposed Development Description and HRA Implications**

- 6.1.9. The Proposed Development is described in Chapter 2 of this report.
- 6.1.10. The spatial relationship between the Order Limits of the Proposed Development and European sites is shown in Figure 9.1.1 of the Environmental Statement (ES) Appendix 9.1 [REP7-087] Sheets 1, 2 and 3.
- 6.1.11. The Proposed Development is not directly connected with, or necessary to, the management of a European site. Therefore, the SoS must make an 'Appropriate Assessment' (AA) of the implications of the Proposed Development on potentially affected European sites in light of their Conservation Objectives.
- 6.1.12. The Applicant's assessment of effects is presented in the following application document:
- HRA – Information to Inform an AA [REP7-248] (hereafter referred to as 'the HRA Report' (HRAR))
- 6.1.13. Section 3.7 of the HRAR confirms that the HRA was discussed with statutory consultees during preparation of the application and ES.
- 6.1.14. A HRAR was provided with the DCO application ('the application HRAR') [APP-226]. This was subsequently updated during the Examination [CR1-121, REP2-023, REP7-248] in response to ExQs, representations made by IPs and change requests. These are discussed in more detail below. (A version was also provided at DL4 [REP4-243] which replicated the version provided at DL2 [REP2-023].) All references to the HRAR in this report are to REP7-248 unless indicated otherwise.



- 6.1.15. The ExA issued ExQs relating to HRA matters during the Examination [PD-013]/ PD-014 (Welsh/English), [PD-022] (Welsh/English), [PD-027] (Welsh/English).
- 6.1.16. The Applicant submitted three change requests during the Examination as described in Chapter 2 of this report. These changes were accepted by the ExA as set out in Chapter 2.
- 6.1.17. Change Request 1 (CR1) [CR1-001 to CR1-126] comprised 18 changes. A revised HRAR [CR1-121] was provided as part of the CR1 documentation. It was explained within CR1-121 that it had also been updated to reflect amended information relating to construction methodology for the crossing of the River Dee (Afon Dyfrdwy). No additional European sites were identified.
- 6.1.18. CR1-121 explained that two of the changes had potential to change the conclusions of the HRA:
- Change PS02b - the retention of the slurry tank and movement of the Newbuild Pipeline closer to the functionally linked woodland of the Deeside and Buckley Newt Sites Special Area of Conservation (SAC); and
  - Change PS03 - the relocation of the Northop Hall Above Ground Installation, that would introduce a drainage connection into Wepre Brook Tributary 1, which is hydrologically linked to the Deeside and Buckley Newt Sites SAC.
- 6.1.19. An assessment of the potential impacts of the changes on the old sessile oak woods qualifying feature of the SAC is provided in evidence notes (a) (PS02b) and (d) (PS03) to HRAR Table 6.3 (Deeside and Buckley Newt Sites SAC screening matrix). It was concluded that there would be no LSE on the SAC arising from these changes. No IP disputed this conclusion.
- 6.1.20. The Applicant did not identify any changes to the HRA resulting from Change Request 2 [CR2-001 to CR2-022]. This was not challenged by any IP.
- 6.1.21. The Applicant did not identify whether there would be any changes to the HRA resulting from Change Request 3 (CR3) [CR3-001 to CR3-019]. However, in its DL6 cover letter [REP6-001], it explained, in response to the clarification requested in the ExA's Procedural Decision on CR3 [PD-025], that CR3 could result in "minor nominal changes" to the proximity of the European sites to the Order Limits and the cited distances between them. It considered that the CR3 changes did not result in any change to the LSE assessment contained within the HRAR and therefore that the results and conclusions of the HRA did not need to be amended. This was not challenged by any IP. The cited distances between the Order Limits and the European sites were amended in the updated HRAR submitted at DL7 [REP7-248].
- 6.1.22. In response to ExQ3 question 3.11.1 [PD-027] about whether the HRAR would be further updated as a result of any further changes to the Proposed Development being considered during the Examination, the

Applicant stated [REP7-291] that the updated HRAR [REP7-248] submitted at DL7 took into account the design change requests. It explained that the overall conclusions remained the same as previously reported and had not changed as a consequence of the change requests. The revision included an update to the in-combination assessment to include additional Other Developments. It also included updates to reflect the Applicant's previous responses to ExQ2 questions 2.11.1, 2.11.2 and 2.11.14 [REP5-025]. No IPs disputed the Applicant's conclusion.

- 6.1.23. The Applicant did not identify any LSE on non-UK European sites in European Economic Area States in its HRAR or within its ES. Only UK European sites are addressed in this report. No such effects were raised for discussion by any IPs during the Examination.

## **6.2. FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS**

- 6.2.1. Under Regulation 63 of the Habitats Regulations the Competent Authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an AA and the activities, sites or plans and projects to be included for further consideration in the AA.
- 6.2.2. The Applicant identified European sites within 10 kilometres (km) of the Newbuild Infrastructure Boundary. The European sites and qualifying features that were considered in the Applicant's LSE assessment are identified in Section 5 of the HRAR.
- 6.2.3. NE highlighted in REP1-070 that additional European sites lie within 10km of the application site, including Midland Meres and Mosses Phase 1 and Phase 2 Ramsar sites, and suggested that for clarity wording about these sites could be included in the HRAR. However, it confirmed that it was satisfied with the sites and features included in the assessment.
- 6.2.4. In response [REP5-025] to Q2.11.1 of the ExA's second round of ExQs (ExQ2) and requests for information [PD-022] the Applicant identified that the two Ramsar sites are approximately 8.6km and 8.9km, respectively, to the east of the Proposed Development at their closest point and are designated for their habitats and floral assemblage. The Applicant determined that they are beyond the potential zone of influence of the Proposed Development and confirmed that the qualifying habitats/species are not found within the Newbuild Infrastructure Boundary. On this basis it considered that there were no potential impact pathways that could lead to LSE. The updated version of the HRAR submitted at DL7 [REP7-248] referenced the Ramsar sites and included this information.
- 6.2.5. NRW confirmed in REP1-071 that it concurred with the sites and features considered in the Applicant's HRA.
- 6.2.6. The HRAR assessed the potential impacts during construction and operation and maintenance; it did not assess impacts during the decommissioning phase. The ES [APP-055] states that the pipeline is designed to a lifespan of 40 years and associated infrastructure designed to 25 years. It confirms in Section 3.8 that the basis for the assessment

of the operational life of the Proposed Development is 25 years. When decommissioned, the pipeline would be filled with nitrogen and left in-situ, and above ground features would be dismantled, cleared and ground conditions restored to their previous condition.

- 6.2.7. The Applicant acknowledged in [REP1-044] that decommissioning was included in the draft DCO (dDCO) [APP-024]. It addressed decommissioning in the updated HRAR provided at DL2 [REP2-023]. The HRAR cross-references to Section 3.8 of ES Chapter 3 [APP-055], which describes the proposed approach to decommissioning.
- 6.2.8. The Applicant anticipated that impacts associated with decommissioning would be comparable to construction impacts and explained that references in the HRAR to construction impacts were considered equally applicable to decommissioning impacts.
- 6.2.9. During the Examination, the ExA also requested information on air quality impacts arising from vehicular emissions [PD-022]. More detailed commentary on this is provided below.

### **LSE from the Proposed Development Alone**

- 6.2.10. The Applicant identified potential impacts of the Proposed Development considered to have the potential to result in LSE alone in Section 6.3 of the HRAR.
- 6.2.11. The impacts considered by the Applicant to have the potential to result in LSE alone (all during construction/ decommissioning) are:
- direct and indirect habitat loss (including functionally linked habitat);
  - mortality of species;
  - fragmentation of habitats and/ or species;
  - visual disturbance;
  - noise/vibration disturbance;
  - hydrological effects; and
  - air quality effects (dust deposition).
- 6.2.12. The sites and features for which LSE alone could not be excluded are set out in Table 1.2.1 below.
- 6.2.13. The Applicant's HRAR concluded no LSE from the Proposed Development alone on any of the qualifying features of:
- Alyn Valley Woods/ Coedwigoedd Dyffryn Alun SAC (HRAR Section 5.1);
  - Halkyn Mountain/ Mynydd Helygain SAC (HRAR Table 6.4);
  - Midland Meres and Mosses Phase 1 Ramsar site (HRAR Section 5.1); and
  - Midland Meres and Mosses Phase 2 Ramsar site (HRAR Section 5.1).
- 6.2.14. The Applicant determined that they are beyond the potential zone of influence of the Proposed Development and confirmed that the qualifying habitats/ species are not found within the Newbuild Infrastructure Boundary. On this basis it considered that there were no potential impact pathways that could lead to LSE.

- 6.2.15. NRW confirmed it agreed with the Applicant's conclusion of no LSE in respect of Alyn Valley Woods/ Coedwigoedd Dyffryn Alun SAC and Halkyn Mountain/ Mynydd Helygain SAC [REP1-071]. The qualifying features and the ExA's understanding of the Applicant's and NRW's positions in respect of these SACs are detailed in Annex 1 Tables A1.1 and A1.2 of the RIES.
- 6.2.16. NE did not make specific reference to Midland Meres and Mosses Phase 1 and Phase 2 Ramsar sites in the finalised Statement of Common Ground (SoCG) [REP8-022] but confirmed therein that all biodiversity matters, including HRA, were agreed.
- 6.2.17. The ExA are satisfied that due to the location of these European sites and the nature of their qualifying habitats there are no potential impact pathways that could lead to LSE on the sites and their features.

### **LSE from the Proposed Development in Combination**

- 6.2.18. The Applicant addressed potential in-combination effects arising from the Proposed Development within Section 6.4 of the HRAR, which sets out the methodology applied. The other plans and projects included in the in-combination assessment are set out in Appendix B of the HRAR.
- 6.2.19. Section 6.4 of the application HRAR [APP-226] detailed the Applicant's approach to assessing in-combination effects. Appendix B of the HRAR listed 42 'Other Developments' for consideration in the in-combination assessment. Nine of the Other Developments were initially considered to have the potential to contribute to result in LSE together with the Proposed Development; these are detailed in Table 6.10 of the HRAR and shown on ES Figure 19.1 [REP4-234].
- 6.2.20. The Applicant highlighted, in its response [REP1-044] to Q1.11.3 of the ExA's first round of ExQs (ExQ1) [PD-013]/ [PD-014] that one development (ID14) had been removed from the HRA following discussions with the North and Mid Wales Trunk Road Agency. This was reflected in the next update of the HRAR [CR1-121].
- 6.2.21. As a result of the proposed design changes the Applicant subsequently identified in [REP7-248] a further six Other Developments with the potential for LSE in combination with the Proposed Development. Of these, it concluded that two could result in LSE and these were additionally taken forward to the AEOI assessment stage.
- 6.2.22. NE, in RR-065 and REP1-070, noted that the in-combination assessment included other schemes that formed part of the wider HyNet North-West Project and suggested that the assessment continued to be updated as more information became available. The Applicant committed in [REP1-044] to reviewing the need to update the assessment should additional or new information become available.
- 6.2.23. No additional plans or projects were identified by IPs for inclusion in the in-combination assessment.
- 6.2.24. The impacts considered by the Applicant to have the potential to result in in-combination LSE (all during construction/decommissioning) are:

- direct and indirect habitat loss (including functionally linked habitat);
- mortality of species;
- visual disturbance;
- noise/ vibration disturbance; and
- air quality effects (dust deposition).

6.2.25. The sites and features for which in-combination LSE could not be excluded are set out in Table 1 below.

6.2.26. No in-combination LSE have been identified for the sites and qualifying features where LSE were excluded from the Proposed Development alone. In-combination effects have been excluded because it was concluded that there were no potential impact pathways that could lead to LSE alone.

**Table 1. European sites and features for which LSE were identified by the Applicant/ could not be excluded**

**Key**

C/D = construction/decommissioning

<b>European site(s)</b>	<b>Qualifying Feature(s)</b>	<b>LSE alone from:</b>	<b>LSE in-combination from:</b>
<b>River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC</b>  (Crossed by the Proposed Development)	All qualifying features (habitats and species)	Dust deposition (C/D)	Dust deposition (C/D)
	Otter	Loss of functionally linked habitat (potential otter holts along Wepre Brook) (C/D)  Mortality as a result of entrapment in voids (C/D)	Loss of functionally linked habitat (C/D)  Mortality (C/D)
	Atlantic salmon Sea lamprey Brook lamprey River lamprey	Disturbance as a result of lighting around the River Dee (Afon Dyfrdwy) (C/D)  Fragmentation as a result of lighting around the River Dee (Afon Dyfrdwy) (C/D)	Disturbance as a result of lighting around the River Dee (Afon Dyfrdwy) (C/D)

European site(s)	Qualifying Feature(s)	LSE alone from:	LSE in-combination from:
	Bullhead		
<p><b>Deeside and Buckley Newt Sites SAC</b>  (Immediately adjacent to the Proposed Development)</p>	<p>Old sessile oak woods with Ilex and Blechnum in the British Isles</p>	<p>Direct loss of functionally linked woodland habitat (C/D)</p> <p>Hydrological effects due to working in and around the Wepre Brook/Gorge (hydrological connection) (C/D)</p>	<p>N/A</p>
	<p>Great Crested Newt</p>	<p>Temporary direct habitat loss (C/D)</p> <p>Mortality (C/D)</p> <p>Disturbance (C/D)</p> <p>Fragmentation (C/D)</p>	<p>N/A</p>
<p><b>Mersey Estuary SPA</b>  (approximately 0.8km to the north)</p> <p><b>Mersey Estuary Ramsar site</b></p>	<p>Redshank</p> <p>Waterbird assemblage</p>	<p>Disturbance from noise (C/D)</p> <p>Disturbance from lighting around the River Dee (Afon Dyfrdwy) (C/D)</p>	<p>Disturbance from noise and lighting (C/D)</p>

European site(s)	Qualifying Feature(s)	LSE alone from:	LSE in-combination from:
<p>(approximately 0.8km to the north)</p> <p><b>The Dee Estuary SPA</b></p> <p>(approximately 1km to the north)</p> <p><b>The Dee Estuary Ramsar site</b></p> <p>(approximately 1km to the north)</p>			
<p><b>Dee Estuary/ Aber Dyfrdwy SAC</b></p> <p>(approximately 1km to the north)</p>	<p>Sea lamprey</p> <p>River lamprey</p>	<p>Disturbance from lighting around the River Dee (Afon Dyfrdwy) (C/D)</p> <p>Fragmentation from lighting around the River Dee (Afon Dyfrdwy) (C/D)</p>	<p>N/A</p>



## **LSE Assessment Outcomes**

- 6.2.27. The Applicant concluded that there would be no LSE from either the Proposed Development alone or in combination with other projects and plans on the Alyn Valley Woods/ Coedwigoedd Dyffryn Alun SAC and the Halkyn Mountain/ Mynydd Helygain SAC.
- 6.2.28. The following sites and their features were assessed by the Applicant to determine if they could be subject to AEOI from the Proposed Development alone or in combination with other plans and projects, in view of their conservation objectives:
- River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC;
  - Deeside and Buckley Newt Sites SAC;
  - Mersey Estuary SPA;
  - Mersey Estuary Ramsar site;
  - Dee Estuary/ Aber Dyfrdwy SAC;
  - Dee Estuary SPA; and
  - Dee Estuary Ramsar site.
- 6.2.29. The qualifying features and LSE impact pathways screened in by the Applicant are summarised in Table 6.11 of the HRAR. Tables A1.1 to A1.9 of the RIES list all the European sites that were considered in the HRAR and for each site set out which pathways were screened in and which were screened out.
- 6.2.30. The potential LSE pathways screened in by the Applicant were not disputed by any IPs. However, the Applicant's decision to exclude certain LSE impact pathways were disputed by IPs and questioned by the ExA during the Examination.
- 6.2.31. In response [REP1-070] to ExQ1.11.1 [PD-013]/ [PD-014] requesting NE's and NRW's views on the Applicant's conclusions in respect of particular sites, NE confirmed that it was satisfied with the Applicant's conclusions in relation to the River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC. It deferred to NRW in respect of the Deeside and Buckley Newt Sites SAC.
- 6.2.32. In response to ExQ1.4.14 NRW advised [REP1-071] that it had reviewed the 5-year mean peak of redshank recorded in the Dee Estuary SPA both at site designation and according to the most recent data in order to inform a condition assessment of the passage and overwintering redshank. It concluded that the redshank population was in favourable condition. Based on this and the nature of the disturbance as described by the Applicant, NRW concluded that the Proposed Development was unlikely to have a significant effect on the Dee Estuary SPA.
- 6.2.33. NRW initially confirmed that it agreed with the Applicant's conclusions in relation to all of the European sites relevant to Wales [REP1-071]. Subsequently NRW raised concerns about the Deeside and Buckley Newt Sites SAC. Commentary on this is set out below.

- 6.2.34. NE [RR-065] confirmed that it was satisfied that impacts of construction phase lighting would be unlikely to result in AEOI of the Dee Estuary SPA, Dee Estuary Ramsar site, River Mersey SPA and River Mersey Ramsar site. It stated in REP1-070 in response to ExQ1.4.15 [PD-014] that it was satisfied that the proposed mitigation for lighting disturbance was adequate. It also confirmed that it was satisfied with the measures contained within the Outline Construction Environmental Management Plan (OCEMP) [REP7-242] to limit movement of personnel around the working areas and so avoid related disturbance effects to birds.
- 6.2.35. NE did not agree with the Applicant's screening conclusion of no LSE in relation to potential noise disturbance to wintering birds (on functionally linked land), that are features of the Mersey Estuary SPA and Ramsar site and the Dee Estuary SPA and Ramsar site. The Applicant subsequently took this impact pathway forward to the AEOI assessment in the updated DL2 HRAR [REP2-023].
- 6.2.36. Commentary on the sites and features for which LSE was a matter for discussion during the Examination is set out below.

## **Mersey Estuary SPA and Ramsar site/ Dee Estuary SPA and Ramsar site**

### **Noise disturbance on wintering birds - alone and in combination**

- 6.2.37. Paragraph 6.2.11 of the HRAR stated that noise disturbance is likely during construction. However, the Applicant screened out LSE from noise disturbance for all wintering birds.
- 6.2.38. The evidence notes to the screening matrices in the HRAR noted that the Proposed Development would cross the River Dee (Afon Dyfrdwy) using trenchless crossing methods and stated that the elevation difference between the mudflat habitat and the proposed trenchless crossing exit/entrance pits would reduce the potential for disturbance. It is stated that numbers of qualifying bird species recorded elsewhere along the route of the Proposed Development were low.
- 6.2.39. NE [RR-065] stated that it did not agree with the Applicant's conclusions regarding noise disturbance to wintering birds and sought further detail on expected noise levels. It did not agree with the Applicant's generalisation that significant disturbance is unlikely beyond a distance of 300m and advised that consideration should be given to high disturbance works (including piling and hydraulic breaking). NE reiterated these points in [REP1-070].
- 6.2.40. The Applicant provided further information on noise levels in [REP1-042] and in the updated HRAR [REP2-023]. The predicted noise levels at 10m from the trenchless installation techniques were 82 decibels (dB). The exit and entry pits would be located at least 16m from the riverbanks and at an elevation change of approximately 2m, potentially providing a small degree of attenuation. The predicted noise levels at 16m were approximately 78dB. The Applicant acknowledged the potential for the noise levels to exceed the thresholds that may elicit a response from the birds. It stated that the proposed crossing works would be short in

duration and any disturbance would be temporary and that there was sufficient alternative habitat available along the River Dee (Afon Dyfrdwy) to accommodate temporarily displaced birds. This was the basis for the original conclusion of no LSE. The Applicant had decided to carry this impact pathway forward to an AEOI assessment on the basis that LSE could not be ruled out during construction in the absence of mitigation, and the DL2 HRAR [REP2-023] provided an update accordingly.

- 6.2.41. In response to ExQ2.11.3 [PD-022] the Applicant stated that the qualifying species of the Mersey Estuary SPA and Ramsar site and the Dee Estuary SPA and Ramsar site are primarily ducks and waterbirds, for which estuarine and water environments would represent functionally linked habitat [REP5-025]. As detailed in the relevant screening matrices in the HRAR, the majority of the Newbuild Infrastructure Boundary is comprised of arable farmland, poor semi-improved grassland and improved grassland, which are unfavourable habitats for the qualifying bird species, and therefore not considered functionally linked to the European sites.
- 6.2.42. In relation to how the extent of functional habitat had been established, the Applicant explained that it had taken into account the habitat preferences and lifecycles of the qualifying species of the Mersey Estuary SPA/ Ramsar site and the Dee Estuary SPA/ Ramsar site, the presence of habitat suitable to support these species, and the results of the baseline bird surveys undertaken to inform the ecological impact assessment (ES Appendix 9.8: Bird Report [REP4-112]).
- 6.2.43. In respect of the noise levels that the Applicant considers would result in either LSE or AEOI, the Applicant explained that a literature review had identified evidence of disturbances to waders and waterfowl at noise levels exceeding 56dB, as detailed in paragraph 6.2.11 of the HRAR, and that this was used as the threshold for determining the potential for LSE. In relation to AEOI, the Applicant considered that it was not appropriate to consider a noise threshold in isolation and that a number of other factors informed such an assessment. These include the number of qualifying birds affected; the duration, proximity, and spatial extent of the noise disturbance; topography; and the availability of alternative resource/ habitat to accommodate any displaced birds. All of these factors informed the assessment set out in Section 7 of the HRAR and the conclusion that the Proposed Development would not result in AEOI of the Mersey Estuary SPA and Ramsar site and the Dee Estuary SPA and Ramsar site.
- 6.2.44. In response to ExQ2.11.4 about whether there would be any large amplitude 'startling' components used during construction in proximity to these sites, the Applicant confirmed [REP5-025] that it did not anticipate that there would be any construction mechanisms or methodologies that could be considered large amplitude or startling. Regular and standard plant and equipment would be used to construct the River Dee (Afon Dyfrdwy) crossing.
- 6.2.45. The Applicant responded in [REP5-025] to ExQ2.11.6 about which qualifying features and to which type of disturbance its conclusion of

potential for LSE resulting from in-combination disturbance effects applied. It stated that as only common tern and redshank were recorded in numbers greater than 1% of the SPA citation/Ramsar Information Sheet or Wetland Bird Survey (WeBS) populations (as set out in paragraph 4.2.9 of the HRAR) in-combination disturbance effects would only be relevant to these two qualifying species. Disturbance would arise from construction activities and could be from light, noise/ vibration, and/ or human presence. The Applicant confirmed that all of these disturbance pathways were considered in reaching the in-combination assessment conclusions.

6.2.46. Further commentary on this is provided in Section 6.5 of this chapter.

## **Dee Estuary/Aber Dyfrdwy SAC**

### **Hydrological effects**

6.2.47. Section 6.2 of the HRAR notes that 'frac-out'<sup>9</sup> during the horizontal directional drilling trenchless crossing works could result in mortality of qualifying fish species but states that given the geology of the River Dee (Afon Dyfrdwy) this is unlikely to occur. The HRAR screened out LSE from hydrological effects on the sea lamprey and river lamprey qualifying features of the SAC.

6.2.48. NRW [RR-066] requested that mitigation was proposed to avoid the main run-time for key fish species to ensure such effects are minimal, and clarification regarding timeframes for trenchless crossings of the River Dee (Afon Dyfrdwy).

6.2.49. In response [REP5-044] to ExQ2.11.7 [PD-022], NRW stated that it considered the main migratory period for sea lamprey to generally fall between April – June, with a caveat that this can be water temperature-dependent as 12° is a trigger temperature. It identified river (and brook) lamprey migration as occurring between October and March, with spawning occurring in April.

6.2.50. The Applicant explained [REP1-042] that completion of the trenchless crossing was expected to take no longer than four weeks, as indicated in the HRAR. As set out in HRAR Section 6.2, geotechnical investigations either side of the River Dee (Afon Dyfrdwy) had been undertaken, the results of which are contained within the ES at Appendix 11.6 (Ground Investigation Report) [APP-135]. The crossing would be at a sufficient depth (at least 15m) at which there would be an adequate thickness of low permeability, stiff cohesive strata such that a bentonite frac-out was unlikely to occur. In the highly unlikely event of a frac-out due to the fast-flowing tidal nature of the River Dee (Afon Dyfrdwy), bentonite would be dissipated and diluted rapidly within the water column, preventing localised suspension. The Applicant therefore considered that there would not be LSE on receptors, including key fish species, within

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<sup>9</sup> Where drilling mud is released through fractured bedrock into the surrounding rock and sand and travels towards the surface.

the River Dee (Afon Dyfrdwy) and that seasonally timed works were not required.

- 6.2.51. NRW accepted [REP1-071] the Applicant's conclusions on the low risk of frac-out during the horizontal directional drilling works. It also highlighted that due to the proposed 4-week timescale for the works the peak migratory periods could be avoided. It confirmed in its response [REP5-044] to ExQ2.11.8 that it agreed that there would be no LSE on the sea and river lamprey features of the SAC.

## **River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC**

### **Air quality effects – in combination**

- 6.2.52. Table 6.10 of the application HRAR [APP-226] identified the potential for Other Development 14 to have in-combination effects on all qualifying features as a result of dust deposition (and in-combination disturbance effects on qualifying fish species) of the River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC.
- 6.2.53. It was subsequently explained in paragraph 19.9.1 of the ES Addendum for CR1 [CR1-124] that Welsh Government had confirmed that construction of ID14 would not take place concurrently with the Proposed Development. Accordingly, it was deleted from the list of plans and projects included in the in-combination assessment in the updated HRAR [CR1-121] provided with the accepted change request documents.
- 6.2.54. Potential for in-combination dust effects was also identified in Table 6.10 of the HRAR in relation to Other Development 27. In response to ExQ2.11.9 [PD-022], the Applicant confirmed that the conclusion of LSE for in-combination dust effects on the River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC applied to all qualifying features (habitats and species) [REP5-025].
- 6.2.55. Further commentary on this is provided in Section 6.5 of this chapter.

### **Loss of habitat/mortality of otter - alone and in combination**

- 6.2.56. The list of watercourses where signs of otter were recorded contained in paragraph 4.4.7 of the updated DL2 HRAR included additional locations within and in proximity to the Newbuild Infrastructure Boundary. In response to ExQ2.11.11 [PD-022], the Applicant confirmed [REP5-025] that potential impacts to otter along all watercourses surveyed, and where otter field signs were recorded, were considered within the HRAR. Field signs confirmed the presence of otter along these watercourses but no resting places were recorded. The Applicant stated that the assessment presented in evidence note (b) to the screening matrix contained in HRAR Table 6.2 remained valid, which concluded that there was potential for LSE on otter in relation to the loss of functionally linked habitat along Wepre Brook and the potential entrapment of otter in voids created during construction.
- 6.2.57. Table 6.10 of the application HRAR [APP-226] identified the potential for Other Development 27 to have in-combination effects on otter, but did

not specify the potential impact pathway. In response to ExQ2.11.10 the Applicant confirmed that its conclusion, that there was potential for an in-combination LSE on otter should construction of each development take place at the same time, was in relation to loss of habitat (including functionally linked habitat) and mortality as a result of entrapment in voids [REP5-025].

6.2.58. Further commentary on this is provided in Section 6.5 of this chapter.

## **Deeside and Buckley Newt Sites SAC**

### **Air quality effects**

6.2.59. The HRAR did not include an assessment of air quality impacts from vehicular emissions at four road diversions within 200m of the Deeside and Buckley Newt Sites SAC on the basis that diversions would be “temporary and short in duration” (Section 6.2 of the HRAR).

6.2.60. In response to ExQ2.11.12 [PD-022], about the duration of the road diversions and the anticipated vehicle movements along these diversions, the Applicant confirmed that the road closures were anticipated to last a maximum of two weeks [REP5-025]. The temporary closure of Pinfold Lane and Shotton Lane would result in traffic being diverted onto the B5125 Holywell Road, which is the route closest to the SAC. The Applicant stated that this would not be in excess of expected normal daily variation in terms of traffic volumes.

6.2.61. NRW confirmed in its response [REP5-044] to ExQ2.11.12 that it considered that potential changes to air quality resulting from the proposed road diversions were not likely to have LSE in respect of the conservation objectives for the features of the SAC (Great Crested Newt and broadleaf woodland).

### **Habitat loss, mortality, disturbance, fragmentation impacts on GCN - alone**

6.2.62. Paragraph 4.3.6 of the HRAR states that as a result of the CR1 proposed changes five additional waterbodies that were scoped in had not been subject to Habitat Suitability Index (HSI) assessment for GCN as they were identified outside of the seasonal survey windows. ExQ2.11.13 [PD-022] asked the Applicant to confirm the approach that was taken to assessment of waterbodies that were not subject to HSI assessment, including the five additional waterbodies scoped in as a result of CR1.

6.2.63. The Applicant responded in [REP5-025]. It explained that in England impacts to these waterbodies not subject to HSI assessment and which were located outside NE’s ‘red risk zone’ (which contain GCN populations of regional, national or international importance) would be covered by a District Level Licence (measure D-BD-044 of the Register of Environmental Actions and Commitments (REAC) [REP7-236]).

6.2.64. It confirmed that a precautionary assessment was applied to waterbodies not subject to HSI assessment located within the red risk zone in England or located in Wales (unless scoped out due to unsuitable environmental conditions at the time of the survey or separated from the Proposed

Development by a major barrier to dispersal), and GCNs were assumed to be present.

- 6.2.65. The Applicant highlighted that only 80 of the 222 waterbodies across the survey area (HRAR paragraph 4.3.6) are located in Wales and only a proportion of these are within the Deeside and Buckley Newt Sites SAC (and Halkyn Mountain/Mynydd Helygain SAC) or within approximately 500m of the SACs (and therefore functionally linked and of relevance to the HRA). The Applicant also highlighted that the five additional waterbodies scoped in as part of CR1 are located at the northeast end of the Proposed Development in England and not functionally linked to either of the SACs.
- 6.2.66. Further commentary on this is provided in Section 6.5 of this chapter.

### **GCN - surveys**

- 6.2.67. NRW stated in its WR and response to ExQ1.4.8 [REP1-071] that it considered that the GCN surveys were undertaken in accordance with published guidance, proportionate and therefore satisfactory for the purposes of informing the principles of constructing and operating the Proposed Development. However, it also questioned whether consideration of low rainfall conditions during Spring 2022 (which could affect breeding) had been included in the assessments; and whether consideration was given to the foraging range for GCN within ponds located in England, which may potentially forage within land in Wales.
- 6.2.68. The Applicant was of the view [REP2-038] that it had appropriately considered these matters within the assessment and through the mitigation contained within the OCEMP [REP7-242]. It explained that only seven of the ponds taken forward for presence/ absence surveys in Wales were recorded as dry during the course of the surveys. Of these, GCN presence was recorded in one during the initial five surveys; it was recorded as dry on the sixth survey visit. All waterbodies that were subsequently recorded as dry were subject to at least one successful survey, and were recorded as dry on the second, third or fourth survey visit. Regardless, the proposed mitigation measures and application of a Precautionary Working Method Statement (as set out within the OCEMP) to safeguard GCN during construction would be applied across the entire Proposed Development. Pre-construction surveys would be completed to inform licensing and mitigation requirements as secured by dDCO Requirement (R) 12 [REP9-011]. The Applicant agreed that it was likely that the terrestrial foraging range of GCN in England extended into Wales and considered that the proposed mitigation would safeguard GCN during construction.
- 6.2.69. Further commentary on this is provided in Section 6.5 of this chapter.

### **LSE Assessment - Summary**

- 6.2.70. The ExA are satisfied, on the basis of the information provided, that the correct impact-effect pathways on each European site have been assessed and is satisfied with the approach to the assessment of alone and in-combination likely significant effects.

- 6.2.71. The sites and features for which LSE could not be excluded, and the relevant pathways, are set out in Table 1 above and further considered in Section 6.4 of this chapter.
- 6.2.72. Taking into account the reasoning provided, the ExA considers the Proposed Development is likely to have a significant effect from the pathways identified in Table 1.2.1 above on the qualifying features of the European sites when considered alone or in combination with other plans or projects. This was not disputed by IPs during the Examination.

### **6.3. CONSERVATION OBJECTIVES**

- 6.3.1. The conservation objectives for the sites and features identified above in Table 1.2.1 are set out in Appendix A of the Applicant's HRAR. Table 5.2 of the HRAR details the known threats and pressures to these sites.
- 6.3.2. NE [REP1-070] and NRW [REP1-071] confirmed in response to ExQ1.11.2 [PD-013]/ [PD-014] that they were satisfied that the conservation objectives for the European sites as set out in HRAR Appendix A were correct.
- 6.3.3. In response to ExQ2.11.16 [PD-022] about the current conservation status of the European sites for which the HRA concluded LSE, the Applicant stated that this information is not known to be publicly available [REP5-025]. It explained that the information on conservation objectives presented in Appendix A of the HRAR was obtained from the Conservation Objectives (England) and Core Management Plan (Wales) documents for each European site.

### **6.4. FINDINGS IN RELATION TO ADVERSE EFFECTS ON INTEGRITY**

- 6.4.1. The European sites and qualifying features identified in Table 1 above were further assessed by the Applicant to determine if they could be subject to AEoI from the Proposed Development, either alone or in combination. The assessment of AEoI was made in light of the conservation objectives for the European sites [REP7-248].
- 6.4.2. The ExA is satisfied, based on the information provided, that the correct pathways have been assessed for the relevant sites. This section discusses the conclusions with respect to AEoI for each site.
- 6.4.3. The Applicant's approach to the in-combination AEoI assessment is set out in its HRAR [REP7-248].
- 6.4.4. Based on the findings of the Examination, the ExA is satisfied that an assessment of AEoI from the Proposed Development in combination with other plans and projects can be based on this information and that no other plans or projects are required to be taken into account.

#### **Mitigation**

- 6.4.5. Proposed mitigation measures are identified in Section 7 of the HRAR, from which cross-reference is made to the corresponding measures contained in the REAC [REP7-236]. Section 7.1 of the HRAR confirmed



that a Construction Environmental Management Plan (CEMP) would be implemented during construction, which would be informed by the measures detailed within the REAC and the OCEMP [REP7-242]. The CEMP is secured by dDCO R5.

- 6.4.6. Further specific mitigation measures are detailed throughout HRAR Section 7 and include best practice measures in relation to dust prevention, water pollution prevention, obtaining relevant protected species licences, measures to avoid otter entrapment, appropriate lighting design, and replacement woodland planting. These measures have been taken into account in the Applicant's assessment of effects on integrity.
- 6.4.7. In response to ExQ1.11.5 [PD-014] the Applicant highlighted the guidance it had used, principally Institute of Air Quality Management guidance, to develop appropriate mitigation for the control of construction dust [REP1-044].
- 6.4.8. In respect of in-combination effects, HRAR Section 7.8 confirmed that Other Developments 1a, 19, 21 and 27 proposed their own mitigation measures (as detailed in HRAR Appendix B). It noted that the remaining Other Developments are at pre-application stage and assumed that they would secure appropriate mitigation to avoid adverse effects.

### **European sites for which the Applicant's conclusion of no AEoI was not disputed**

- 6.4.9. The Applicant's HRAR concluded that the Proposed Development will not result in AEoI of the following European sites and their features alone or in combination:
- River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC; and
  - Dee Estuary/ Aber Dyfrdwy SAC.
- 6.4.10. The proposed mitigation for these sites is described in Section 7.2 of the HRAR. The proposed measures include a Dust Management Plan, supervision by an Ecological Clerk of Works, providing suitable means of escape from or installation of temporary exclusion fencing around trenches or voids as appropriate and a suitable lighting design. These measures are included in the REAC and secured through R5 (CEMP) and R11 (Landscape and Ecological Management Plan) of the dDCO.
- 6.4.11. The features of these sites for which LSE were identified but AEoI excluded are set out in Table 2 below.
- 6.4.12. Neither the ANCBs, nor other IPs, raised concerns in relation to the Applicant's conclusions for these sites and their features. NRW confirmed it agreed with the Applicant's conclusion of no LSE in respect of these sites [REP1-071].
- 6.4.13. The ExA is satisfied on the basis of the information provided in the HRAR that AEoI on these sites and their qualifying features can be excluded.

**Table 2: LSE on European sites and qualifying features for which AEOI from the Proposed Development (alone or in-combination) can be excluded**

European site(s)	Qualifying Feature(s)	LSE identified from:	AEOI alone	AEOI in-combination
<b>River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC</b>	Water courses of plain to montane levels with the Ranunculus fluitantis and Callitriche-Batrachion vegetation  Floating water-plantain	Air quality effects (dust deposition) (C/D)	X [APP-226]  Agreed with NRW [REP1-071]	X [APP-226]  Agreed with NRW [REP1-071]
	Atlantic salmon Sea lamprey Brook lamprey River lamprey Bullhead	Disturbance from lighting around the River Dee (Afon Dyfrdwy) trenchless crossing installation (C/D)  Fragmentation of habitats/ species (C/D)  Air quality effects (dust deposition) (C/D)		

European site(s)	Qualifying Feature(s)	LSE identified from:	AEoI alone	AEoI in-combination
	Otter	Direct and indirect habitat loss and/or mortality (C/D)  Air quality effects (dust deposition) (C/D)		
<b>Dee Estuary/Aber Dyfrdwy SAC</b>	Sea lamprey  River lamprey	Disturbance (C/D)  Fragmentation of habitats/ species (C/D)	X [APP-226]  Agreed with NRW [REP1-071]	X [APP-226]  Agreed with NRW [REP1-071]

**Key:**

C/D = Construction/ Decommissioning

X = no AEoI

## **European sites for which the Applicant's conclusion of no AEOI was subject to further examination**

- 6.4.14. The Applicant also concluded no AEOI for the following sites and their qualifying features:
- Deeside and Buckley Newt Sites SAC;
  - Mersey Estuary SPA;
  - Mersey Estuary Ramsar site;
  - Dee Estuary SPA; and
  - Dee Estuary Ramsar site.
- 6.4.15. The Applicant's assessment of effects from the Proposed Development alone and in combination with other plans or projects is presented in Sections 7.2 to 7.7 and Section 7.8 (supported by Appendix B) of the HRAR, respectively. It concluded that the Proposed Development would not adversely affect the integrity of any of the European sites and features assessed.
- 6.4.16. Some of the Applicant's conclusions of no AEOI in relation to these European sites and particular qualifying features were disputed by IPs and were discussed throughout the Examination. The account of the examination of these matters is set out below.
- 6.4.17. NE stated in REP1-070 in response to ExQ1.4.15 [PD-014] that it remained unclear about mitigation for noise disturbance. It requested that further consideration was given to the timing of works that would be in close proximity to significant numbers of SPA birds and confirmation of the timing of works in close proximity to the River Dee (Afon Dyfrdwy).
- 6.4.18. NRW initially confirmed that it agreed with the Applicant's conclusions that there would be no AEOI on any European site [REP1-071]. It subsequently stated in its response [REP5-044] to ExQ2 [PD-022] that it could not yet agree no AEOI on the Deeside and Buckley Sites SAC. It then confirmed in [REP7-318] that it concurred with the Applicant's assessment of effects on the European sites, including the Applicant's revised assessment criteria and conclusions based on a 1.6km GCN dispersal distance (in response to question reference ID 2, Table 4.1 of the RIES [OD-008]), according to the updated Joint Nature Conservation Committee (JNCC) guidance. It highlighted that the assessment conclusions applied equally to both the Deeside and Buckley Newt Sites SAC and the Halkyn Mountain/ Mynydd Helygain SAC, of which GCN are also a qualifying feature.
- 6.4.19. Further commentary on these matters is provided below.

### **Mersey Estuary SPA and Ramsar site / Dee Estuary SPA and Ramsar site**

- 6.4.20. A description of these European sites and their qualifying features, and the potential effects resulting from the Proposed Development, are provided in Sections 5 and 7 of the Applicant's HRAR, respectively.

6.4.21. The Applicant's HRAR provided an assessment which addressed the potential for AEOI resulting from:

- Noise/ vibration and lighting disturbance on redshank and the waterbird assemblages, alone and in combination.

6.4.22. NE raised concerns during the Examination about the Applicant's conclusions in relation to noise disturbance on wintering birds. Commentary on this is provided below.

### **Noise disturbance effects on wintering birds alone and in-combination**

6.4.23. The Applicant provided information on proposed noise mitigation in [REP1-042] and in the updated DL2 HRAR [REP2-023]. It identified proposed mitigation as including temporary noise screening methods, acoustic barriers and management, such as hoarding (as set out in REAC measures D-NV-005 and D-NV-009 [REP7-236]), secured by dDCO [REP9-011] R4 (Scheme design) and R5 (CEMP). The REAC also required noise screening methods should achieve a minimum attenuation of 10dB, resulting in a reduced noise level of approximately 68dB (measure D-NV-009 of the REAC).

6.4.24. Noise mitigation measures would be detailed within a Noise and Vibration Management Plan (as set out in REAC measure D-NV-001), to be included within the CEMP, secured by dDCO R5. The Applicant highlighted that the proposed mitigation was based on the worst-case scenario. A review (HRA sensitivity test) would be undertaken by an ecologist during or following detailed design to determine the need for noise mitigation, depending on the proximity of works and the noise levels that would be generated (in line with REAC measure D-BD-067, secured by dDCO R5 (CEMP)).

6.4.25. In relation to NE's concerns ([RR-065] and [REP1-070]) about the Applicant's statement in the HRAR that significant disturbance is unlikely beyond a distance of 300m, the Applicant responded that it did not anticipate a need for piling or hydraulic breaking or any other high disturbance activities. That would be finally determined at the detailed design stage through the HRA sensitivity test. Following the implementation of mitigation and taking into account the short-duration and availability of alternative habitat the Applicant considered that there would be no AEOI of the SPAs and Ramsar sites.

6.4.26. At DL4 the Applicant submitted an updated draft SoCG [REP4-246] with NE, in which the Applicant acknowledged NE's advice to consider high disturbance works including piling and hydraulic breaking causing noise disturbance beyond 300m, although it reiterated that it did not anticipate a need for such works. The draft SoCG confirmed that any requirement for high disturbance works would be determined at the detailed design stage and a sensitivity test of the HRA would be undertaken, as described within the OCEMP [REP7-242] and secured by the dDCO [REP9-011].

6.4.27. The Applicant stated within the draft SoCG that the crossing of the River Dee (Afon Dyfrdwy) was expected to take up to four weeks and any noise

disturbance on wintering birds would be temporary, and that there was sufficient alternative habitat resource along the River Dee (Afon Dyfrdwy) to accommodate temporarily displaced birds should this occur. It described the proposed mitigation measures identified in the updated DL2 HRAR [REP2-023] and detailed in the OCEMP [REP7-242].

- 6.4.28. This issue is shown as agreed in the draft SoCG and it is stated that NE had confirmed in email correspondence dated 5 June 2023 that, on review of further information provided within the updated HRAR [REP2-023], it agreed this matter.
- 6.4.29. In NE's response [REP5-043] to ExQ2.11.5, it stated that it had previously raised concerns about noise disturbance impacts on birds associated with the Dee Estuary SPA and Ramsar site and the Mersey Estuary SPA/ Ramsar and LSE on redshank due to the proximity of the Proposed Development to the areas where significant numbers of redshank were recorded in the wintering bird surveys. It noted that the LSE and AEoI assessments had been updated in the HRAR [REP2-023] in relation to noise disturbance and considered that suitable mitigation had been proposed to limit disturbance to birds during the River Dee (Afon Dyfrdwy) crossing works. It confirmed that it was satisfied that the information in the updated HRAR [REP2-023] addressed its previous comments.
- 6.4.30. NE further confirmed in [REP7-317] and [REP8-022] (final SoCG) that it agreed with the Applicant's conclusion that there would not be AEoI of the Mersey Estuary SPA and Ramsar site, Dee Estuary SPA and Ramsar site and the River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC (ie, the European sites in/ partly within England).
- 6.4.31. On the basis of the information provided during the Examination, including the proposed mitigation, the ExA is satisfied that there are no LSE pathways that would result in AEoI of these European sites from the Proposed Development alone or in combination.

### **Deeside and Buckley Newt Sites SAC**

- 6.4.32. A description of the European sites and their qualifying features, and the potential effects resulting from the Proposed Development, are provided in Sections 5 and 7 of the Applicant's HRAR, respectively.
- 6.4.33. The Applicant's HRAR provided an assessment which addressed the potential for AEoI resulting from:
- loss of functionally linked woodland habitat and hydrological effects from the Proposed Development alone on Old sessile oak woods with Ilex and Blechnum; and
  - temporary habitat loss, mortality, disturbance, and fragmentation from the Proposed Development alone on GCN.
- 6.4.34. NRW raised concerns during the Examination about the Applicant's conclusions in relation to effects on GCN. Commentary on this is provided below.

## **Habitat loss, mortality, disturbance and fragmentation effects on GCN from the Proposed Development alone**

- 6.4.35. NRW stated in [REP1-071] that they agreed with the conclusions of the HRAR for each of the European sites. However, although it did not reference any particular site it highlighted within the DL1 draft SoCG [REP1-023] that the revised dispersal distances for GCN, as set out in updated 2022 JNCC guidance, did not appear to be reflected in the HRAR and that matter was shown as “under discussion”. The draft SoCG with NRW submitted at DL3 (REP3-026) showed that this matter was still under discussion. No draft SoCGs with NRW were submitted for DL4 or DL5.
- 6.4.36. In response to ExQ2.11.14 [PD-022] requesting an update on the position, the Applicant [REP5-025] explained that it was agreed at a meeting with NRW on 29 June 2023 that further GCN surveys were not required. It was also agreed that to ensure that the HRA reflected and acknowledged the updated JNCC guidance the HRAR would be updated prior to the end of the Examination to consider ponds within 1.6km of the SAC as functionally linked. The Applicant stated that it was agreed that the conclusion in the HRAR of no AEOI was unlikely to change and that NRW would confirm their position once they have reviewed the updated HRAR.
- 6.4.37. NRW confirmed in its response [REP5-044] to ExQ2.11.15 that it considered the GCN surveys to be appropriate and proportionate, and that it was satisfied with the Applicant’s proposed approach to mitigation as set out in the ES, OCEMP and Outline Landscape and Ecological Management Plan [REP7-250] and secured by R5 (CEMP) and R11 (Landscape and Ecological Management Plan) of the dDCO [REP9-011]. It acknowledged that the Applicant had indicated at the June 2023 meeting that the HRAR would be updated to reflect the updated JNCC advice. However, it stated that it was currently unable to advise in relation to the conclusion of no AEOI on the SAC until the information was provided.
- 6.4.38. The draft SoCG between the Applicant and NRW submitted at DL6 [REP6-028] records that, at a meeting with NRW on 12 July 2023, the Applicant explained how it had addressed consideration of the 1.6km dispersal distance of GCN within the (updated) HRA. Draft SoCG Item 3.3.14 in Table 3-3 subsequently shows its status as agreed, although the discussion alongside it still reflected NRW’s initial concerns and did not provide any additional commentary on such agreement. The Applicant submitted an updated and final version of the HRAR at DL7 [REP7-248], which incorporated revisions in relation to GCN dispersal distances. The final signed SoCG [REP7-261] includes an additional statement that the Applicant had subsequently revised its assessment criteria and conclusions and that NRW concurred with the updated assessment and its conclusions. In addition, NRW confirmed [REP7-318] in response to question reference ID 2 Table 4.1 of the RIES [OD-008] that it concurred with the Applicant’s revised assessment criteria and conclusions based on a 1.6km GCN dispersal distance. It also highlighted that the assessment conclusions applied equally to both the

Deeside and Buckley Newt Sites SAC and the Halkyn Mountain/ Mynydd Helygain SAC, of which GCN are also a qualifying feature.

- 6.4.39. On the basis of the information provided during the Examination, including the proposed mitigation, the ExA is satisfied that these LSE pathways will not result in AEOI of the European site from the Proposed Development alone.

## **AEOI Assessment Outcomes - Summary**

### **Proposed Development alone and in-combination**

- 6.4.40. The Applicant's HRAR concluded that AEOI can be excluded for the European sites listed in Table 3 below from the Proposed Development alone and in-combination with other plans and projects. These conclusions were agreed with NE [REP7-317] and [REP8-022] (final SoCG) and NRW [REP7-261] (final SoCG) and [REP7-318].
- 6.4.41. Some of the conclusions in the Applicant's HRAR were subject to Examination through ExQs and Issue Specific Hearings, as detailed above.
- 6.4.42. Based on the findings of the Examination, the ExA is satisfied that AEOI of all of the European sites and their qualifying features can be excluded from the Proposed Development alone and in combination with other plans and projects.



**Table 3: ExA’s Conclusions in relation to AEOI at the end of the Examination**

<b>European site(s) and qualifying feature(s)</b>	<b>LSE identified from:</b>	<b>AEOI alone excluded</b>	<b>AEOI in-combination excluded</b>	<b>Derogations engaged and compensatory measures required?</b>
<b>River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC</b>				
All qualifying features (habitats and species)	Air quality effects (dust deposition) - alone and in-combination (C/D)	Yes	Yes	No
Otter	Loss of functionally linked habitat (potential otter holts along Wepre Brook) - alone and in-combination (C/D)  Mortality as a result of entrapment in voids - alone and in combination (C/D)	Yes	Yes	No
Atlantic salmon  Sea lamprey	Disturbance as a result of lighting around the River Dee	Yes	Yes	No

European site(s) and qualifying feature(s)	LSE identified from:	AEoI alone excluded	AEoI in-combination excluded	Derogations engaged and compensatory measures required?
Brook lamprey River lamprey Bullhead	(Afon Dyfrdwy) - alone and in-combination (C/D)  Fragmentation as a result of lighting around the River Dee (Afon Dyfrdwy) - alone (C/D)			
<b>Deeside and Buckley Newt Sites SAC</b>				
Old sessile oak woods with Ilex and Blechnum in the British Isles	Direct loss of functionally linked woodland habitat - alone (C/D)  Hydrological effects due to working in and around the Wepre Brook/Gorge (hydrological connection) - alone (C/D)	Yes	Yes	No
Great Crested Newt	Temporary direct habitat loss - alone (C/D)	Yes	Yes	No

European site(s) and qualifying feature(s)	LSE identified from:	AEoI alone excluded	AEoI in-combination excluded	Derogations engaged and compensatory measures required?
	Mortality - alone (C/D) Disturbance - alone (C/D) Fragmentation - alone (C/D)			
<b>Mersey Estuary SPA</b>				
Redshank Waterbird assemblage	Disturbance from noise alone and in-combination (C/D) Disturbance from lighting around the River Dee (Afon Dyfrdwy) alone and in-combination (C/D)	Yes	Yes	No
<b>Mersey Estuary Ramsar site</b>				
Redshank Waterbird assemblage	Disturbance from noise alone and in-combination (C/D)	Yes	Yes	No

European site(s) and qualifying feature(s)	LSE identified from:	AEoI alone excluded	AEoI in-combination excluded	Derogations engaged and compensatory measures required?
	Disturbance from lighting around the River Dee (Afon Dyfrdwy) alone and in-combination (C/D)			
<b>The Dee Estuary SPA</b>				
Redshank Waterbird assemblage	Disturbance from noise alone and in-combination (C/D)  Disturbance from lighting around the River Dee (Afon Dyfrdwy) alone and in-combination (C/D)	Yes	Yes	No
<b>The Dee Estuary Ramsar site</b>				
Redshank Waterbird assemblage	Disturbance from noise alone and in-combination (C/D)  Disturbance from lighting around the River Dee (Afon	Yes	Yes	No

European site(s) and qualifying feature(s)	LSE identified from:	AEoI alone excluded	AEoI in-combination excluded	Derogations engaged and compensatory measures required?
	Dyfrdwy) alone and in-combination (C/D)			
<b>Dee Estuary/ Aber Dyfrdwy SAC</b>				
Sea lamprey River lamprey	Disturbance from lighting around the River Dee (Afon Dyfrdwy) - alone (C/D)  Fragmentation from lighting around the River Dee (Afon Dyfrdwy) - alone (C/D)	Yes	Yes	No

## **6.5. HRA CONCLUSIONS**

- 6.5.1. The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the project with respect to adverse effects on potentially affected sites must be assessed by the SoS.
- 6.5.2. Nine European sites and their qualifying features were considered in the Applicant's assessment of LSE:
- Alyn Valley Woods/ Coedwigoedd Dyffryn Alun SAC;
  - Halkyn Mountain/ Mynydd Helygain SAC;
  - River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC;
  - Deeside and Buckley Newt Sites SAC;
  - Mersey Estuary SPA;
  - Mersey Estuary Ramsar site;
  - Dee Estuary/ Aber Dyfrdwy SAC;
  - Dee Estuary SPA; and
  - Dee Estuary Ramsar site.
- 6.5.3. LSE were identified for seven of these sites, listed in Table 1 above, both from the Proposed Development alone and/ or in-combination with other plans or projects.
- 6.5.4. The methodology and outcomes of the Applicant's screening for LSE on European sites was subject to some discussion and scrutiny, however, the sites and features for which LSE were identified were not disputed by any IP. We, as the ExA, are satisfied that the correct European sites and qualifying features have been identified for the purposes of the assessment, and that all potential impacts which could give rise to significant effects have been identified.
- 6.5.5. The ExA's findings are that, subject to the mitigation measures to be secured in the dDCO, AEoI of the following sites from the Proposed Development when considered alone or in-combination with other plans or projects can be excluded:
- River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid SAC;
  - Deeside and Buckley Newt Sites SAC;
  - Mersey Estuary SPA;
  - Mersey Estuary Ramsar site;
  - Dee Estuary/ Aber Dyfrdwy SAC;
  - Dee Estuary SPA; and
  - Dee Estuary Ramsar site.
- 6.5.6. We consider, as the ExA, that there is sufficient information before the SoS for the DESNZ to enable them to undertake an AA in order to fulfil their duty under the requirements of the Habitats Regulations.

## **7. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT**

### **7.1. INTRODUCTION**

- 7.1.1. This Chapter sets out the Examining Authority's (ExA's) reasoning and conclusions on whether there is a case for the making of a Development Consent Order (DCO) for the Proposed Development.
- 7.1.2. Relevant legislation and policy have been identified in Chapter 3. Consideration towards the need for the Proposed Development in Chapter 5 of this report (taking into considerations in Chapter 4) alongside an appraisal of the other potential effects recorded in Chapters 5 and 6, which extend to wide ranging important environmental as well as socio-economic effects.
- 7.1.3. For the reasons set out in Chapter 5 of this report, the ExA considers only the Alltami Brook Crossing Embedded Pipe Bridge Version (EPBV) of the DCO [REP8-007], submitted at Deadline 8, accords with all relevant legislation and policy requirements in Wales and England having regard to water quality, flood risk, future flood resilience effects and pollution.
- 7.1.4. The ExA's conclusions are based on the provisions of the recommended DCO (rDCO) at Appendix D of this report, which is the EPBV of the DCO [REP8-007], the drafting of which is discussed in Chapter 9.

### **7.2. THE PLANNING BALANCE**

- 7.2.1. The ExA's conclusions are informed by all evidence presented to the Examination, including: the application documents, the Environmental Statement, Habitats Regulations Assessment (HRA), Local Impact Reports, Statements of Common Ground, Relevant Representations, Written Representations, oral submissions at the hearings, answers to the ExA's written questions, responses to requests for information and the Accompanied and Unaccompanied Site Inspections undertaken.
- 7.2.2. In doing so, the ExA has taken all other relevant law and policy into account for both Wales and England including due regard to the Public Sector Equality Duty.
- Green Belt/ Green Wedge impacts and 'Very Special/ Exceptional Circumstances'*
- 7.2.3. In Chapter 5 the ExA identified that the Above Ground Installation (AGI) at Ince and the two Block Valve Stations (BVS) (at Rock Bank and Mollington) are situated within the Green Belt. Within FCC's administrative area, there would be one BVS at Aston Hill located within a designated Green Wedge.
- 7.2.4. In policy terms, all those structures are inappropriate forms of development having regard to Green Belt/ Green Wedge designation, albeit they are essential to the operation of the Proposed Development.

- 7.2.5. Due to their permanence, mass, scale, and physical appearance, the ExA recognises these facilities would not preserve the openness of the Green Belt, nor the open character of the Green Wedge within Flintshire. Moreover, they have a hard engineered appearance that does not share the same natural and rural greenery characteristics of their immediate surroundings.
- 7.2.6. It has also been concluded by the ExA that the AGI at Ince and the BVSs at Rock Bank, Mollington and the BVS at Aston Hill would materially reduce the openness of the Green Belt and Green Wedge. Openness having both spatial and visual aspects associated as acknowledged by the ExA.
- 7.2.7. Accordingly, a case for 'very special circumstances' for these elements of the Proposed Development must be determined in line with the collective advice of the NPS EN-1, National Planning Policy Framework (NPPF) and Planning Policy Wales (PPW).
- 7.2.8. Paragraph 148 of the NPPF confirms that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 7.2.9. PPW paragraph 3.74 mirrors the policy position of the NPPF, stating that inappropriate development should not grant planning permission except in 'very exceptional circumstances', where other considerations clearly outweigh the harm development would do to the Green Wedge. These very exceptional cases would therefore be treated as departures from respective development plans.
- 7.2.10. The ExA has acknowledged a core routing objective undertaken by the Applicant has been to avoid settlements and unnecessary conflicts with other developments so far as is reasonably practicable. It is accepted it would not be practicable for the pipeline and associated infrastructure to avoid the Cheshire West and Chester Green Belt, nor the Green Wedges within Flintshire County.
- 7.2.11. With respect to the siting of the Ince AGI, its location was selected to ensure it is as close as practicable to a hub of local industrial emitters, notably CF Fertilisers and the Peel NRE Limited's 'Protos' development. Its location was agreed in consultation with these interested parties, notably the landowner (Peel NRE), to ensure the Proposed Development avoids conflicts with other development proposals and aspirations concerning its facilities. The location choice is also consistent with enabling industry to use carbon capture and storage facilities.
- 7.2.12. With regard to the Aston Hill BVS the location is considered to be the most appropriate in a very constrained locality where all suitable sites fall within the designated Green Wedge. To mitigate this, the BVS is proposed to be screened through mitigation planting to minimise the level of visual intrusion.



- 7.2.13. The Needs Case for the Proposed Development [APP-049] outlines the environmental, economic, and socio-economic benefits the Proposed Development can deliver. In doing so it forms the Applicant's case for very special/ exceptional circumstances justifying the harm to the Green Belt and Green Wedge.
- 7.2.14. The ExA accepts that given the current climate emergency the UK Government has set out its overriding support for new carbon capture and storage projects to come forward to help significantly reduce carbon dioxide (CO<sub>2</sub>) emissions as quickly as possible. This general support for carbon capture and storage is articulated in many documents and policies but, most recently, the UK Government has made its commitment to bringing forward the HyNet Project in 'The Growth Plan 2022' published in September 2022 (HM Government, 2022).
- 7.2.15. The ExA acknowledges the HyNet Project has the potential to reduce CO<sub>2</sub> emissions by up to 10 million tonnes every year by the early 2030s, which is the equivalent of taking 4 million cars off the road [REP4-022].
- 7.2.16. The Applicant also points out that the HyNet Project would to 2030, result in over £5 billion of capital investment and create over £3.7 billion GVA. In doing so creating thousands of jobs annually, as detailed within [REP4-022] and [REP1-046].
- 7.2.17. Overall, the ExA agrees there are very special/ exceptional circumstances to set aside such harm arising from inappropriateness and material reductions in openness, in Green Belt and Green Wedge locations as per the advice of the NPPF and PPW.
- 7.2.18. Thus, having regard to the full set of conclusions for each topic listed within Chapter 5 of the ExA's report, the ExA has found the following:
- Adverse impacts weighing against the DCO being made:
    - The ExA acknowledges demonstrable harm would arise to the 'Green Belt' (within Cheshire) and to the 'Green Wedge' (within Flintshire) by virtue of inappropriateness and material reductions in openness, because of the above ground aspects of the development within those locations. There would be one AGI (at Ince) and two BVS (at Rock Bank and Mollington) sited within the Green Belt. Within FCC's administrative area, there would be one BVS at Aston Hill located within a Green Wedge. The ExA accepts the AGI at Ince and the BVSs are physical built structures essential to the operation of the Proposed Development. Although the size and mass of the relevant BVSs and AGIs would materially reduce Green Belt and Green Wedge 'openness' at those locations, proposed mitigation would eventually screen the visual impact and allow due visual integration within the countryside. Nevertheless, in accordance with NPS EN-1, NPPF and PPW the ExA attaches very great weight to such resultant harms arising from inappropriateness and the reduction in openness which would be apparent to the Green Wedge and Green Belt areas of Wales and England.

- Limited 'potential' risk to tree health harm to Ancient Woodland owing to relative buffer zone distances associated to the DCO and associated construction work activity. Also accepting no ancient tree loss is proposed by the Applicant; that ancient woodland is irreplaceable; and therefore, any potentially harmful impact to such assets still carries great weight in the ExA's recommendation.
- The overall tree loss carries great weight against the Proposed Development. Although the ExA accepts compensation planting would go some way to mitigate this effect, and the Applicant's embedded design approach minimises tree loss as an overarching avoidance strategy.
- The associated visual and landscape impacts of the development for an initial period before mitigation establishes. The ExA has found visual impacts would be harmful during construction and at year 1 post construction for the most important receptors. These impacts would reduce over time bearing in mind mitigation. The ExA agrees the Outline Construction Environmental Management Plan [REP7-242], together with the Register of Environmental Actions and Commitments [REP7-236] would ensure appropriate planting and that the overall impact over time would not be significant by year 15 of operation. Nevertheless, the ExA attaches great weight to the visual harm.
- The ExA has found 'potential' risk of harm to a non-designated bronze aged archaeological asset of historic and cultural interest. Namely, Bronze Age funerary remains (close to Northop Hall and Babel BVS). The probable existence of those remains is otherwise mitigated against through archaeological record provision, as far as practicable. Nevertheless, the ExA finds there would be a likely moderate adverse impact to those non-designated archaeological assets of historic and cultural value during construction owing to risks of disturbance to those remains. In acknowledging that potential risk of harm, the ExA is content that the level of mitigation possible is otherwise appropriate, and the Applicant has adopted best practice. Albeit the residual risk of potential harm to a non-designated asset remains as a material consideration. In those circumstances, the ExA attributes moderate weight to this issue.
- Noise and disruption to amenity levels of residents and businesses and human health during construction periods would be adverse. But for a limited and managed time. In particular the residential areas of Mollington, Sandycroft, Aston, Ewloe, and Northop Hall AGI would be significantly adversely affected. The ExA attaches great weight to such harms.
- The loss of 'Best and Most Versatile' (BMV) agricultural land to accommodate the above ground aspects of the scheme (primarily the proposed AGIs and BVSs). The ExA attaches moderate weight to the loss of BMV land as the quantum of land would be low, with surrounding areas remaining available for agricultural activity.
- Neutral impacts - In addition, the ExA has considered the following matters and has concluded that they do not weigh significantly for or against the DCO being made bearing in mind all mitigations proposed:

- air quality;
  - biodiversity (subject to an additional requirement being added to the Applicant's preferred DCO to secure off site ecological enhancements in Wales and England);
  - heritage and cultural impacts (aside from the specific non-designated archaeological asset referred to in the above section);
  - noise and vibration during operation;
  - impacts to the water environment and flood risks, providing the alternative crossing of the Alltami Brook, being the embedded pipe bridge crossing, is secured in the DCO, as recommended in the rDCO attached at appendix D of this report. (Note: The reason for the embedded pipe bridge version being recommended, as opposed to the Applicant's preferred trenched crossing version is set out in Chapter 5 above);
  - climate change resilience impacts;
  - transport impacts;
  - pollution control/ contaminated land/ mineral workings and safeguarding impacts;
  - waste management and material assets impacts;
  - potential nuisance issues concerning dust, odour and artificial light impacts;
  - safety; security, major accidents, and disasters impacts; or decommissioning interests;
- In addition to the above, the ExA has found that with the range of mitigations secured for any harms identified, cumulative impacts have been appropriately assessed by the ES and do not weigh for or against the DCO.

7.2.19. In tandem with those points, in conclusion of all cultural heritage matters for Wales and England, the ExA has taken account of Regulation 3 of the Decisions Regulations, and had full regard to the desirability of:

- preserving scheduled monuments and their settings;
- preserving listed buildings, their settings, and any features of special architectural or historic interest; and
- preserving or enhancing the character or appearance of conservation areas.

7.2.20. Importantly, in accordance with the above the ExA considers that the Applicant has adequately assessed the significance of all relevant heritage assets potentially affected by the Proposed Development. Due regard has been given to legislation in Wales and England. Sufficient information has been provided as part of the Application for the ExA to make an informed judgment, taken alongside the Examination site visits also undertaken.

### **Benefits weighing significantly in favour of the DCO being made**

7.2.21. Benefits weighing significantly in favour of the DCO being made:

- The ExA has found there is a demonstrable overarching need for the Proposed Development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England. Such crucial benefit holds very great weight.
- The demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation, also holds very great weight in favour of the DCO being made.

## **Planning balance and conclusion**

- 7.2.22. Both individually and collectively, the very great overarching public benefits related to the Proposed Development far outweigh any 'potential' prospect harm to the health of ancient woodland in proximity to the pipeline route, bearing in mind all mitigation proposed. The likelihood of such harm is considered unlikely in the ExA's opinion, given the 15 metre buffer to be maintained by the DCO (the exception being 13 metres at Newbridge Farm) and the collective mitigation proposed.
- 7.2.23. Whilst potential harm cannot be completely ruled out, given the proximity of trees at the periphery of woodland for a limited part of the pipeline route near Newbridge Farm, the ExA notes the alignment of the Proposed Development would move away from this area of woodland due to its proposed trajectory.
- 7.2.24. In terms of veteran trees, the Proposed Development, has been amended during the Examination endeavouring to ensure no such loss occurs. Indeed, the revised proposal no longer anticipates the loss of any veteran trees.
- 7.2.25. Irrespective of the above, the Applicant has proposed a compensation strategy in regard to this matter, which would be secured through the DCO. The compensation strategy accords with best practice.
- 7.2.26. Furthermore, applying the advice of NPS EN-1 (2011) and the emerging dNPS EN1 (March 2023), it is clear that the need case for the Proposed Development is substantial and urgent when dealing with Green Belt considerations (for England) and Green Wedge considerations (for Wales). Combined they form the 'very special circumstances' (NPS/ NPPF for England) and 'very exceptional circumstances' (for PPW) case outlined by the Applicant for allowing the identified harm to take place within Green Belt/ Green Wedge locations by virtue of inappropriateness and any subsequent reduction in openness.
- 7.2.27. There would be an unavoidable material reduction in openness impacting on the appearance of the area, but it would be mitigated as far as possible in visual terms when all landscaping establishes to ensure visual integration of AGIs and BVSs within the wider countryside. Further aspects of the very special/ exceptional circumstances case accepted by the ExA include the lack of other realistic alternatives to avoid such

harms, given residential area avoidance evidenced. This being linked to strategic route choices.

- 7.2.28. In that context, the ExA has considered the overall case made in line with the provisions of NPS EN-1 (Overarching NPS for Energy), other national and local policy, and agrees there are very special/ very exceptional circumstances present to allow the development to proceed within Green Belt and Green Wedge locations. The circumstances described by the Applicant clearly outweigh any harm that would arise in relation to those specific land designations.
- 7.2.29. In terms of cultural heritage, the ExA has had due regard to non-designated archaeological assets of known cultural value. That harm has been assessed, alongside all Examination material and contributions from IPs to reach a conclusion on the nature, significance, and value of identified heritage assets, along with sufficient understanding of the contribution of their significance.
- 7.2.30. The ExA has also considered the implications of the Proposed Development to the settings of all designated assets, so that the degree of the impact to heritage and cultural assets (in totality) can be properly understood. In considering these matters the ExA has found there would be neutral impact resulting from the Proposed Development on designated heritage assets and the limited harm to non-designated heritage assets would be outweighed by the very great overarching public benefits of the Proposed Development, as detailed above.
- 7.2.31. Bringing all relevant points together the ExA finds the demonstrable need for, and considerable public benefits of, the Proposed Development clearly outweigh all of the adverse effects identified. The ExA recognises the Proposed Development offer's the rare opportunity to assist the UK in achieving its decarbonisation objectives and overwhelming regional economic betterment, at scale, for future generations. The level of socio-economic betterment would be significant to Wales and England, and to the UK as a whole.
- 7.2.32. Although there would be some adverse effects none of those, either individually or cumulatively, lead the ExA to a different conclusion in the overall balance of benefits and adverse impacts.
- 7.2.33. The Proposed Development is development for which an HRA Report has been provided. In reaching the overall conclusion and recommendations in this report, the ExA has considered all documentation relevant to HRA.
- 7.2.34. The ExA has had regard to the findings of the HRA and the comments of NRW and NE. An appropriate assessment is required to be undertaken by the decision maker. The Secretary of State (SoS) is the competent authority under the Habitats and Species Regulations 2017 (as amended) (Habitats Regulations) and will make the definitive assessment. The ExA considers that there is sufficient information before the SoS to enable them to undertake an appropriate assessment in order to fulfil their duty under the requirements of the Habitats Regulations.

7.2.35. In regard to the additional requirement, the ExA notes this can be achieved using the Applicant's Biodiversity Net Gain (BNG) terminology applied to the Examination documentation itself, for administrative convenience, in the context that BNG is not mandatory for NSIPs in Wales or England. The additional requirement the Applicant proposes is worded as follows:

*"No development may commence until a scheme (which may comprise of up to 2 parts being one for within England and one for within Wales) securing the provision of BNG of 1% or greater for the priority habitats affected by the authorised development (as calculated using NE Biodiversity Metric 3.1), has been submitted to and approved in writing by the relevant planning authority. The scheme must set out measures to deliver and secure the maintenance for 30 years of the BNG provision."*

7.2.36. In summary the ExA would highlight the objections raised by NRW to the Applicant's preferred version of the dDCO (the trenched crossing of the Alltami Brook). Its objection is due to the potential risk of loss of water flow to ground within the Alltami Brook, with the potential to cause deterioration of the Wepre Brook waterbody, and noncompliance with the WFD. As detailed in Chapter 5 of this report, the ExA considered the Applicant's preferred version of the DCO (the trenched crossing version) to be unacceptable. However, the ExA has proceeded on the basis of the alternative dDCO submitted by the Applicant, being the embedded pipe bridge version [REP8-007], submitted at D8, to which NRW do not object, as they do not consider it to be in breach of the WFD.

7.2.37. In the light of the above, the ExA finds that, subject to the provisions of the rDCO (Appendix D), being the embedded pipe bridge version, which includes the above requirement there is no reason for any matter including HRA matters to prevent the making of the DCO.

7.2.38. Overall, subject to the alternative crossing of the Alltami Brook, being the embedded pipe bridge crossing, being secured, as recommended in the rDCO attached at appendix D of this report, the case for the making of the DCO for the Proposed Development has been made and is recommended accordingly.

## **8. COMPULSORY ACQUISITION AND RELATED MATTERS**

### **8.1. INTRODUCTION**

8.1.1. The application included proposals for the Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights over land. This chapter records the examination of those proposals and related issues.

### **8.2. THE REQUEST FOR CA AND TP POWERS**

8.2.1. The application draft Development Consent Order (dDCO) and all subsequent versions include provision for CA of freehold interests and private rights and the creation of new rights over land. They also contain provisions for the TP of land. All references to the dDCO in this Chapter of the Report hereafter refer to the Applicant's Preferred Version (APV) of the dDCO (the Trenched Crossing Version (TCV)) [REP9-011] and the Applicant's alternative version of the dDCO being the Embedded Pipe Bridge Version (EPBV) [REP8-007] of the dDCO unless otherwise stated.

8.2.2. None of the land included in the CA request is National Trust Land or Common Land. However, there is Open Space land and Crown interests within the Order Limits. The Open Space land is a single plot of land and is shown on the Special Category Land Plans [REP7-008], whilst the Crown interests are shown on the Crown Land Plans [REP4-005]. These relate to specific plot numbers within the following Work No. areas in order that the Applicant may implement the Proposed Development. The Plot Nos. as identified in the Book of Reference (BoR) [REP7-025] and the Land Plans [CR3-003] are included in the list below in brackets ():

- Special Category Land - Open Space land:
  - Work No. 35 – Carbon Dioxide (CO<sub>2</sub>) Pipeline Works (Plot No. 17-02).
- Crown Interests:
  - Work No. 15 - CO<sub>2</sub> Pipeline Works (Plot No. 6-26).
  - Work No. 16 - CO<sub>2</sub> Pipeline Works (Plot No. 7-07).
  - Work No. 17 - CO<sub>2</sub> Pipeline Works (Plot Nos. 7-07, 7-08, 7-09 and 8-01).
  - Work No. 17A - Permanent Access (Plot Nos. 7-07 and 7-08).
  - Work No. 17B - Permanent Access (Plot Nos. 7-08 and 7-09).
  - Work No. 18 - CO<sub>2</sub> Pipeline Works (Plot No. 8-01).
  - Work No. 18A - Temporary Access (Plot No. 8-02).
  - Work No. 19 - CO<sub>2</sub> Pipeline Works (Plot No. 8-16).
  - Work No. 39 - CO<sub>2</sub> Pipeline Works (Plot Nos. 17-22 and 17-24).
  - Work No. 42 - CO<sub>2</sub> Pipeline Works (Plot No. 18-26).
  - Work No. 44 - CO<sub>2</sub> Pipeline Works (Plot Nos. 19-10, 19-11, 19-12, 20-01, 20-02, 20-03, 20-05, and 20-06).
  - Work No. 49 - Permanent Access (Plot No. 22-04).
  - Work No. 50 - CO<sub>2</sub> Pipeline Works (Plot Nos. 22-06, 22-07, 22-08, 22-09 and 22-10).

- 8.2.3. The application as originally submitted included a Statement of Reasons (SoR) [APP-027], Funding Statement [APP-009], BoR [APP-007] and Land Plans [APP-011]. However, revisions to these documents have been received throughout the Examination with the most up-to-date versions received as part of the Deadline (DL) 7 submissions (Tuesday 5 September 2023).
- 8.2.4. As such the most up-to-date versions of the above-mentioned documents are the SoR [REP7-021], Funding Statement [APP-029], BoR [REP7-025] and Land Plans [CR3-003]. These documents, taken together, form the basis of the analysis in this chapter. References to the SoR, BoR, Funding Statement and the Land Plans in this chapter from this point should be read as references to the latest revisions cited above, unless stated otherwise.
- 8.2.5. The dDCO distinguishes between the 'Order Land' and the 'Order Limits'. It specifies the Order Land to be the land shown on the land plans [CR3-003], which is within the limits of land to be acquired or used and described in the BoR [REP7-025]; whilst Order Limits are defined as meaning "*...the limits shown on the works plans [REP7-007] within which the authorised development may be carried out*". As such the Order Limits consist of the land required for Work Nos. 1 to 57N as shown on the Works Plan [REP7-007].
- 8.2.6. The Order Limits of the Development Consent Order (DCO) establish the extent of the land that may be affected by the CA and TP powers being sought along the Proposed Pipeline route. The precise location of the Newbuild CO<sub>2</sub> Pipeline, its associated subsurface land take and acquisition of new surface rights, depends on its route alignment within that corridor of land that is shown coloured pink on the Land Plans [CR3-003] and is generally 100 metres (m) wide. This allows for the routing to be finalised at the detailed design stage.
- 8.2.7. Once the precise location of the Newbuild CO<sub>2</sub> Pipeline is known the general working width required for construction of the Newbuild CO<sub>2</sub> Pipeline would typically be 32m, although this is likely to widen at major crossings or areas of trenchless crossing. The Applicant considers this width would provide the necessary flexibility for the detailed routing and construction methodologies. In some areas the proposed Order Limits are wider to allow for issues that may arise (eg potentially problematic ground conditions, to enable accommodation of consented development, etc.)
- 8.2.8. Once constructed, the Applicant's SoR [REP7-021] states: "*the maximum 24.4m wide corridor of acquired land will provide sufficient space for safe working access and maintenance activities during operation. This includes allowing sufficient working area to create trenches to access the buried pipeline if required. In some locations, the corridor has been reduced to less than 24.4m where it is not possible to accommodate that width, such as where the DCO Proposed Development passes along constrained streets at Church Lane and Chester Road. In these locations the pipeline is being installed through trenchless techniques so that*



*surface uses will not be disturbed...*" (paragraph 6.2.9). This document also confirmed the *"...proposed width of the subsurface acquisition is a maximum of 24.4m."* (paragraph 6.2.6).

- 8.2.9. Where the pipeline corridor is reduced, as indicated by the Applicant, it notes the width of the permanent acquisition, surface rights and protection and lack of trenched access in such locations would add engineering complexity and cost. However, it also notes the *"...design of the Proposed Development has been progressed to allow for this having regard to the particular constraints of the location."*
- 8.2.10. In terms of operation of the Proposed Development the Applicant has stated *"...if it is necessary to undertake works on the pipeline in locations where the pipeline corridor is constrained, such works shall be done from pits at either end of the trenchless installation. While the need to create and use such pits will result in increased land take at each end, this is submitted to represent the appropriate balance in all the circumstances having regard to the existing uses, especially residential properties, which would otherwise be adversely affected."* (SoR [REP7-021] paragraph 6.2.10).
- 8.2.11. A description of the 'Order Land'/ 'Order Limits' is set out section 3 of the SoR [REP7-021] and identified on the Land Plans [CR3-003].

### **8.3. THE PURPOSES FOR WHICH LAND IS REQUIRED**

- 8.3.1. The purposes for which the CA and TP powers are required are set out in the BoR and SoR. In summary, the Applicant considers the development of the Nationally Significant Infrastructure Project requires the acquisition of additional interests in land, acquisition, and creation of new rights under and over land, and the temporary use of land.
- 8.3.2. As such the Applicant, notwithstanding its intention to acquire these interests and rights by voluntary agreement, is seeking powers to compulsorily acquire land, interests and rights, so as to ensure that the necessary interests and rights in land can be secured without unnecessary delay. In the absence of such powers there would be uncertainty concerning its ability to implement the Proposed Development and affecting the objective of the Applicant in being able to deliver the Proposed Development and the objectives of the Government (as set out in the National Policy Statements (NPSs) and the emerging draft NPSs) being met.
- 8.3.3. The Order Limits of the DCO establish the extent of the land affected by the CA and TP powers sought along the Proposed Pipeline route. This is to address a number of potential proprietary impediments including the existence of unknown ownerships, rights or restrictions over the Order land and for the potential for land agreements not being completed. The rights being sought by the Applicant are:
- to enable it to acquire the freehold interest in land where other powers (such as, inter alia, the acquisition of new rights, overriding of rights, acquisition of subsoil only or temporary occupation) would not

be sufficient or appropriate to enable the construction, operation, maintenance and decommissioning of the Proposed Development (Article 24 of the dDCO (the APV (the TCV) [REP9-011]/ Article 25 of the dDCO (the EPBV) [REP8-007])).

- the permanent acquisition of rights, including by creation of rights, the purpose of which include rights of access for the construction, operation, and maintenance of the DCO Proposed Development; as well as rights of access and rights for the undertaking of mitigation. In terms of creation of new rights these include rights of access for maintenance, and restrictive covenants to secure protection of the Newbuild CO<sub>2</sub> Pipeline. (Article 26 of the dDCO (the APV (the TCV) [REP9-011]/ Article 27 of the dDCO (the EPBV) [REP8-007])).
- the extinguishment and/ or overriding of rights to facilitate the construction, operation and/ or maintenance of the Proposed Development (Article 27 of the dDCO (the APV (the TCV) [REP9-011]/ Article 28 of the dDCO (the EPBV) [REP8-007]));
- the ability to acquire interests in the subsoil and/ or airspace where this is considered sufficient to enable the construction, operation and/ or maintenance of the Proposed Development without needing to acquire the entirety of the freehold interest (Article 31 of the dDCO (the APV (the TCV) [REP9-011]/ Article 32 of the dDCO (the EPBV) [REP8-007]));
- the right to enter upon and appropriate, so much of the subsoil or airspace under or over any street within the Order Limits as may be required for the purposes of the Proposed Development, or any purpose ancillary to the Proposed Development (Article 33 of the dDCO (the APV (the TCV) [REP9-011]/ Article 34 of the dDCO (the EPBV) [REP8-007])); and
- to take TP of land for the carrying out of the Proposed Development and for the purposes of maintenance (Articles 34 and 35 of the dDCO (the APV (the TCV) [REP9-011]/ Articles 35 and 36 of the dDCO (the EPBV) [REP8-007])).

## **8.4. LEGISLATIVE REQUIREMENTS**

- 8.4.1. Section (s) 122(2) of the Planning Act 2008 (PA2008) provides that a DCO may include provision authorising CA only if the Secretary of State (SoS) is satisfied that certain conditions are met. These include that the land subject to CA is required for the development to which the development consent relates or is required to facilitate or be incidental to the development.
- 8.4.2. In addition, s122(3) requires that there must be a compelling case in the public interest for the land to be acquired compulsorily. For this to be met, Department for Communities and Local Government's guidance on CA (the CA Guidance) indicates the SoS will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the CA will outweigh the private loss that would be suffered by those whose land is to be acquired.
- 8.4.3. Section 123 requires the SoS to be satisfied that one of the three procedural conditions set out in subsections (2) to (4) are met, namely:

- that the application for the order included a request for CA of the land to be authorised - s123(2); or
  - that all persons with an interest in the land consent to the inclusion of the provision – s123(3); or
  - that the prescribed procedure has been followed in relation to the land - s123(4).
- 8.4.4. The application included a request for CA of the land to be authorised and, as such, the Examining Authority (ExA) is satisfied that the condition set out in s123(2) of the PA2008 has been met.
- 8.4.5. Section 127 of the PA2008 applies to Statutory Undertaker (SU) land. Sections 127(2) and (3) state that an order granting development consent may include provision authorising the CA of SU land only to the extent that the SoS is satisfied that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking or if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the undertaking. Similarly, s127(5) and (6) of the PA2008 provide for the inclusion of provisions in respect of the CA of rights belonging to SUs only to the extent that the SoS is satisfied that the right can be taken without serious detriment to the carrying out of the undertaking, or that any detriment can be made good. A number of SUs have land interests within the Order Limits.
- 8.4.6. Section 138 of the PA2008 relates to the extinguishment of rights on SU land. It states that an order may include a provision for the extinguishment of the relevant rights, or the removal of the relevant apparatus only if the SoS is satisfied that the extinguishment or removal is necessary for the purposes of carrying out the development to which it relates. For the Proposed Development, this section of the PA2008 is relevant to SUs with land and equipment interests within the Order Limits.
- 8.4.7. TP powers are also capable of being within the scope of a DCO by virtue of paragraph 2, Part 1 of Schedule 5 to the PA2008. This allows for, amongst other things, the suspension of interests in or rights over land compulsorily or by agreement. The PA2008 and the associated CA Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as by definition such powers do not seek to permanently deprive or amend a person's interests in land. Further, such powers tend to be ancillary and contingent to the application proposal as a whole, only capable of proceeding if the primary development is justified.
- 8.4.8. The Neighbourhood Planning Act 2017 includes a number of provisions related to the TP of land including notice requirements, the service of counter notices and compensation. These provisions are not yet in force and are described as technical changes in the explanatory notes that accompany the Act. While it is not necessary to assess the proposal against these provisions, they provide a useful indication of how parliament considers these matters should be addressed and how a balance can be struck between acquiring authorities and those whose

interests are affected by the use of such powers. As a result, the ExA has had regard to the general principles that they set out in reaching its recommendation.

8.4.9. In addition to the legislative requirements set out above, the CA Guidance sets out a number of general considerations which also have to be addressed including:

- whether all reasonable alternatives to CA have been explored;
- whether the Applicant has a clear idea of how it intends to use the land subject to CA powers;
- whether the Applicant can demonstrate that funds are available to meet the compensation liabilities that might flow from the exercise of CA powers; and
- whether the SoS is satisfied that the purposes stated for the CA and TP are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.

8.4.10. The ExA has taken all relevant legislation and guidance into account in its reasoning below and relevant conclusions are drawn at the end of this chapter.

## **8.5. EXAMINATION OF THE CA AND TP CASE**

8.5.1. In examining the application, the ExA has considered all written material in respect of CA and TP. It asked questions of both the Applicant and Affected Persons (APs) in the ExA's First Written Questions (ExQ1) [PD-014], Second Written Questions (ExQ2) [PD-022] and Third Written Questions (ExQ3) [PD-027]. It also issued a Rule 17 letter [PD-028] requesting further information from the Applicant in regard to CA and TP. In addition, it held two CA Hearings (CAH), which took place at separate times and locations.

8.5.2. The first CAH (CAH1) was held on 7 June 2023 in Ewloe, Flintshire and sat in three sessions, (CAH1 Session 1 [EV-014], CAH1 Session 2 [EV-015] and CAH1 Session 3 [EV-016]). The second CAH (CAH2) was held on 10 August 2023 in Chester, Cheshire and sat in two sessions (CAH2 Session 1 [EV-034] and CAH2 Session 2 [EV-035]). The purpose of these CAHs was to explore CA/ TP matters in further detail. The ExA also undertook Accompanied Site Inspections (ASI), where it was able to see parts of the CA land subject to objections and the land over which TP powers are sought. These processes are described in further detail below.

### **WRITTEN PROCESSES**

8.5.3. In ExQ1 [PD-014] (Q1.6.1 to Q1.6.23) the ExA sought further information on a number of CA matters, which were also explored during CAH1 (Session 1 [EV-014], CAH2 Session 2 [EV-015] and CAH1 Session 3 [EV-016]). These matters included (but not limited to):

- whether there were any inaccuracies in the BoR, SoR or Land Plans and whether the BoR was compliant with relevant guidance<sup>10</sup>;
- the adequacies of the Funding Statement;
- how discussions with APs were progressing (including SUs);
- the identification of all persons having an interest in land;
- Category 3 persons identified;
- any reasonable alternatives to CA or TP; and
- views of APs on any area of land or rights, subject to CA/ TP, which are not considered to be required.

8.5.4. Updates on the progress that had been made with APs in respect of CA and TP were provided by the Applicant at regular intervals, including: DL1 [REP1-009]; DL2 [REP2-010]; DL3 [REP3-012]; DL4 [REP4-014]; DL5 [REP5-006]; DL6 [REP6-004]; DL6a [REP6a-004]; DL7 [REP7-023]; DL8 [REP8-010] and DL9 [REP9-015].

8.5.5. The ExA's ExQ2 included several additional questions (Q2.6.1 to Q2.6.6) arising out of the written evidence, from the responses to its ExQ1 and CA/ TP matters were further discussed at the CAH2 (Session 1 [EV-034] and Session 2 [EV-035]). The matters discussed at CAH2 included, but were not limited to:

- requests for updates on discussions between the Applicant and APs;
- whether all reasonable alternatives to CA/ TP had been explored;
- whether sufficient time had been allowed with APs for discussions in regard to CA/ TP;
- the effects of CA/ TP on SUs; and
- progress on Protective Provisions (PP) and whether they were suitable and fit for purpose.

8.5.6. In ExQ3 the ExA included a number of additional questions (Q3.6.1 to Q3.6.6) arising out of the written evidence, from the responses to ExQ1, ExQ2 and CAH2. The matters included, but were not limited to:

- the boundary of the Order Limits, as detailed on the Land Plans (Final version being [CR3-003]);
- clarification from National Highways in regard to CA/ TP and other matters; and
- clarification in regard to Plot 17-02, land identified by the Applicant as special category land.

## **HEARINGS**

8.5.7. During the Examination, two CAH were held. As set out above, these were held on separate days and locations. At CAH1 several APs or their representatives chose to attend the CAH. These included:

- Cheshire West and Chester Borough Council (CWCC);
- Flintshire County Council (FCC);

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<sup>10</sup> Planning Act 2008, Guidance related to procedures for the compulsory acquisition of land, Department for Communities and Local Government, September 2013.

- the Environment Agency (EA);
- National Highways (NH);
- the Canal and River Trust (CRT);
- Encirc Limited;
- Harwarden Community Council;
- Messer's Oultram (Fisher German LLP and Stephens Scown LLP);
- J Bradburne Price and Co on behalf of:
  - Executors of Mrs G. Evans,
  - Mr A. and Mrs K. Hirst,
  - Mr J. C. Peers; and
  - making general comments on behalf of others; and
- Mr J. Williams.

8.5.8. At CAH2 four APs or their representatives chose to attend the CAH. These included:

- CWCC;
- FCC;
- Encirc Limited; and
- Messer's Oultram (Fisher German LLP and Stephens Scown LLP).

8.5.9. All sessions of the CAHs were digitally video recorded and livestreamed. The digital video recordings of the CAH1 and CAH2 sessions were published on the project webpage of the National Infrastructure Planning website. At both CAHs the ExA asked a number of questions of both the Applicant and APs. It also invited any AP who wished to respond to anything arising from the CAH to do so in writing. In terms of APs attending CAH1 any such submissions were requested by DL4 (Tuesday 20 June 2023), whilst in terms of CAH2 any such submissions were requested by DL7 (Tuesday 5 September 2023). This provided opportunities for APs to make comment on the CA/ TP process and on the rights sought and provisions proposed in different iterations of the dDCO as the Examination progressed.

8.5.10. ExA questioning at both CAHs sought information and/ or clarification on a number of matters including:

- the Applicant's overall approach to CA and TP in the context of the relevant tests under the PA2008 and CA Guidance;
- purpose, structure, and content of the BoR, SoR and the Funding Statement and the powers sought and the overall case for them being granted;
- matters not clear from the written evidence;
- the need for, and approach to, TP rights;
- progress on negotiations with APs;
- the need to acquire rights and alternatives;
- updates to the BoR and Land Plans;
- PP in relation to SUs and others; and
- whether there is a compelling case in the public interest.

## **ACCOMPANIED SITE INSPECTIONS**

8.5.11. As noted in Chapter 1, ASIs were undertaken by the ExA on the afternoon of Monday 7 August 2023 and all day on Tuesday 8 August 2023. Prior to this APs were invited to put forward suggested locations for inspection. During the ASI, the ExA observed a number of sites affected by the Applicant's CA and TP proposals. This provided the ExA with an understanding of the location of those plots, as well as above ground infrastructure in-situ. Full details of the sites visited can be found in the ASI Itinerary [PD-021].

## **THE APPLICANT'S CASE**

8.5.12. The Applicant's case is set out in the SoR [REP7-021], which was accompanied by a Funding Statement [APP-049], Land Plans [CR3-003] and a BoR [REP7-025].

8.5.13. Detailed supporting information is set out in the Planning Statement [REP4-021] and the Environmental Statement, where in Chapters 3 (Description of the DCO Proposed Development) [REP7-036] and 4 (Consideration of Alternatives) [REP7-038] describe the Proposed Development and set out its design evolution, including the consideration of alternatives (section 4). This section also considered a 'Do nothing Alternative' (Section 4.3).

8.5.14. During the course of the Examination the Applicant also provided additional information in response to the ExQ1 [PD-014], ExQ2 [PD-022] and ExQ3 [PD-027]; Interested Party/ Parties (IP) and AP submissions and submissions in response to SUs.

## **Requirements for the CA of Land**

8.5.15. The need for the Proposed Development is covered in greater detail in the Applicant's Need Statement [APP-049] and in Section 4 of the SoR [REP7-021]. The ExA assess the need for the Application in Chapter 5 of this Report in the section titled the 'Need for the Proposed Development'.

8.5.16. The Applicant is seeking powers of CA to enable it to acquire land and interests in land that would be needed to construct, operate and maintain the Proposed Development. In the absence of CA, the Applicant considers all of the land required to allow the Proposed Development may not be acquired and it will not be able to proceed. It also states:

- it "...needs to have certainty that the required rights and land can be obtained within a reasonable timeframe" (paragraph 2.2.2 of the SoR [REP7-021]); and
- "Given the clear policy support for the development of projects of this type, the granting of powers of CA to the... Proposed Development represents a proportionate and legitimate interference with private rights for the public benefit." (paragraph 2.2.2 of the SoR [REP7-021]);

8.5.17. The Applicant has advised, wherever possible, it will negotiate to acquire the land and interests it needs to deliver the scheme by voluntary

agreement [REP7-021]. However, it also states where "*...it appears that negotiations are unlikely to be completed or completed in time...*" it will seek to secure that land and rights by exercising the CA powers granted in the DCO, should it be made.

- 8.5.18. The Application is supported by the Land Plans [CR3-003] that show the land and interests required, whilst the Works Plans [REP7-007] indicate the works to be carried out. Section 6 of the SoR [REP7-021] explains in what way the works to be carried out would affect each plot of land. It also includes a number of tables, which set out the plots that would be affected and why the Applicant is seeking to acquire them. Table 1 sets out the plots where the 'Permanent acquisition of land for surface sites' is sought; Table 2 sets out where 'Permanent acquisition of land for [the] pipeline' is sought, whilst Table 3 sets out where the plots where 'Permanent acquisition of rights' are sought.
- 8.5.19. Powers of TP are also sought and Table 4 in Section 6 of the SoR [REP7-021] sets out the plots where TP is required and the purpose for which each of the plots will be used.
- 8.5.20. In addition to the use of CA and TP powers, the Applicant also seeks:
- the ability to extinguish rights, as well as the ability to create new rights or the imposition of restrictive covenants, to facilitate the construction, operation and/ or maintenance of the Proposed Development, (Articles 29 (Private Rights) and 36 (SUs) of the dDCO (the APV (the TCV) [REP9-011]/ Articles 30 (Private Rights) and 37 (SUs) of the dDCO (the EPBV) [REP8-007]));
  - the ability to acquire interests in the subsoil and/ or airspace where this is considered sufficient to enable the construction, operation and/ or maintenance of the Proposed Development without needing to acquire the entirety of the freehold interest (Article 31 (Acquisition of subsoil or airspace only) of the dDCO (the APV (the TCV) [REP9-011]/ Article 37 (Acquisition of subsoil or airspace only) of the dDCO (the EPBV) [REP8-007]); and
  - the right to enter upon and appropriate, so much of the subsoil or airspace under or over any street within the Order Limits as may be required for the purposes of the Proposed Development, or any purpose ancillary to the Proposed Development (Article 33 (Rights under or over streets) of the dDCO (the APV (the TCV) [REP9-011]/ Article 34 (Rights under or over streets) of the dDCO (the EPBV) [REP8-007])).
- 8.5.21. The SoR [REP7-021] when read as a whole document clearly sets out the proposed interference with the rights of those with an interest in the Order Land is for a legitimate purpose, namely the Proposed Development, and that such interference is necessary and proportionate to that purpose. The Applicant also reiterates its view that significant public benefits would be brought about by the Proposed Development and these would outweigh the private loss that would be suffered by those whose land or interests are to be acquired, and therefore interference with that land or rights is justified.



## ALTERNATIVES

- 8.5.22. In Chapter 4 of the Environmental Statement [REP7-038] the Applicant explored alternative options for the scheme. These included a 'do nothing' scenario, as well as the considerations given to other routing options and the reasons for those options discounted.
- 8.5.23. In selecting the route of the Proposed Pipeline, the Applicant evaluated multiple corridor options to identify the best opportunity against the known constraints and its guiding principles to inform the selection process:
- To avoid, minimise and manage impacts upon the environment and local amenity.
  - To ensure the transportation of the CO<sub>2</sub> is undertaken safely and securely.
  - To optimise the potential socio-economic benefits within the region.
  - To be technically viable and constructable with minimum disruption.
  - To be cost-effective.
- 8.5.24. The Applicant also considered individual corridors to have an advantage over other alternatives where it:
- was closer located it would provide more opportunities to connect to existing industrial emitters, would utilise more existing infrastructure, would pass through less complex or urban areas (where possible), and/ or minimise land take and the need for CA;
  - would be likely to have improved environmental outcomes versus the other options considered by avoiding or having reduced adverse environmental impacts;
  - would provide social and economic outcomes of greater benefit compared to the other corridors; and
  - would provide a stronger business case, for example, could be installed at reasonable construction and operational cost, with fewer engineering constraints.
- 8.5.25. All of the alternative options would have required the CA and TP of land and consequently the Applicant advocates that the land proposed to be acquired for the scheme is no more than is reasonably required for the Applicant to occupy and for the construction, mitigation and ongoing maintenance of the scheme.
- 8.5.26. In conclusion of the 'do-nothing' scenario the Applicant considered such a scenario not to be appropriate given the UK commitment to meet its Net Zero 2050 target, which would also leave carbon emissions from industrial sources in North Wales and the North-West of England region unabated.
- 8.5.27. It is clear the Applicant considered alternative routing options and solutions during the evolution of the Proposed Development and design process to date. However, it found that none of these alternatives would provide comparative compelling benefits in the public interest to the Proposed Development and they were less desirable having regard to the

selection criteria set out above, which included environmental and technical issues, including the presence of existing infrastructure and industrial sources.

- 8.5.28. The ExA notes that the Applicant's SoR [REP7-021] states it will continue to pursue negotiations to acquire the relevant interests by voluntary agreement. Indeed, as part of the Applicant's submissions at DLs, regular updates on the progress that has been made with APs in respect of CA and TP were provided, including: DL1 [REP1-009]; DL2 [REP2-010]; DL3 [REP3-012]; DL4 [REP4-014]; DL5 [REP5-006]; DL6 [REP6-004]; DL6a [REP6a-004]; DL7 [REP7-023]; DL8 [REP8-010] and DL9 [REP9-015]. Through these updates and other submissions entered into the Examination it is clear that discussions between the Applicant and many of the APs have been ongoing throughout the Examination, with agreement being reached to acquire the necessary land and rights with a number of them. The ExA considers these matters in further detail below.
- 8.5.29. In conclusion, the Applicant states "*All reasonable alternatives to CA have been explored. The Applicant has clearly set out what each Plot of the Order land will be used for and why it is required. Given the national and local need for the DCO Proposed Development and the support for it found in policy, as well as the suitability of the Order land, CA of the land, other interests together with the suspension and extinguishment of matters affecting the Order land identified by the Applicant for the DCO Proposed Development is justified*" (paragraph 10.1.3 of the SoR [REP7-021]).

## **AVAILABILITY AND ADEQUACY OF FUNDS**

- 8.5.30. A Funding Statement [APP-029] accompanied the application, when first submitted. Within that statement the Applicant estimates the total development cost of the project to be £250 million, of which £20.7 million is estimated to be the total cost of acquisition of land and rights over land (CA costs).
- 8.5.31. The Applicant's funding Statement [APP-029] confirms "*...in relation to land assembly, including any exercise of powers of CA, will be provided by Eni UK Limited and shall be guaranteed through a parent company guarantee from Eni UK Limited in favour of the Applicant.*" (paragraph 1.4.9) As such the Applicant confirms it will "*...not be necessary to obtain any third-party funding in respect of the land assembly requirements...*" as its parent company (Eni UK Limited) "*...has made allowances for these costs, as they would with any large infrastructure project they fund, and will ensure that the necessary funds will be available to the Applicant when required.*" (paragraph 1.4.10).
- 8.5.32. In terms of the total development cost of the project, the Applicant advises these costs include costs of construction, development, project management, land acquisition and operation. It advises funding for the Proposed Development "*...will be provided through internal sources and possibly external debt arrangements.*" (Paragraph 1.5.1). It also advises "*All activities to support FEED [Front-End Engineering Design] will be*

*funded by Eni UK Limited...*" (its parent company) and "Costs incurred after the final investment decision on the DCO Proposed Development will be funded from a combination of equity, debt finance and potentially direct government support, with the exact combination dependent upon finalisation of the business models being developed by BEIS and ongoing discussions with financial advisors." (paragraph 1.5.2).

- 8.5.33. The Funding Statement indicates that the Applicant has the ability to procure the financial resources required for the Proposed Development, including the cost of acquiring any land and rights and the payment of compensation, including in the case of a claim for blight.
- 8.5.34. The adequacy of funding for CA was not raised by any IP during the course of the Examination. As part of ExQ1, the ExA sought clarification on:
- a breakdown of the anticipated CA costs or the provision of a detailed explanation as to why such information should not be submitted into the Examination; and
  - an estimate of the total CA cost, asking the Applicant to clarify how the CA figure was arrived at, and how these costs would be met.
- 8.5.35. In response [REP1-044] the Applicant advised "A *full Property Cost Estimate (PCE) has been carried out... which provides a breakdown of the anticipated CA costs to all plots identified within the Order Limits. The PCE is confidential and therefore will not be submitted into the Examination. The PCE has been based on the 'market rate' for land in the area having regard to recent sales data. This has been adjusted for known individual factors affecting properties, such as where planning permission which would change land value has been sought. Some of this information is commercially confidential or contains business specific information provided to the Applicant which was not given in the context of being made public.*"
- 8.5.36. The ExA notes the Applicant, in its Funding Statement [APP-029] confirmed it had appointed specialist companies in terms of compensation matters. It also notes the Applicant's argument concerning the provision of the property cost estimate, to provide a detailed breakdown of the anticipated CA costs or an estimate of the total CA cost, would be prejudicial to ongoing negotiations, as such information is commercially sensitive.
- 8.5.37. The Applicant also confirmed in its response to the ExQ1 [REP1-044] "*Commercial negotiations with landowners are ongoing and the Applicant is confident good progress can be made on those. The Applicant considers that while the ExA requires to be satisfied as the overall availability of funding, including for compensation, is adequate, that does not need to be done on a case-by-case basis but rather on a project wide basis. Given the acreages involved deviations from one landholding to another tend to average out across the scheme allowing the average market value to represent a reasonable proxy.*"

- 8.5.38. In terms of funding the liabilities arising from CA, the Applicant's Funding Statement [APP-029] confirmed funding *"...in relation to land assembly, including any exercise of powers of CA, will be provided by Eni UK Limited and shall be guaranteed through a parent company guarantee from Eni UK Limited in favour of the Applicant."*
- 8.5.39. It also confirmed that as the Applicant's parent company in the UK has *"...made allowances for these costs..."* it *"...will ensure that the necessary funds will be available to the Applicant when required."* In any event, there is no reason to assume that additional funding could not be secured in the highly unlikely event that it was required bearing in mind:
- The financial status of the Applicant's parent company (Eni (UK) Limited), confirming as of 31 December 2021, it had total assets of £866 million, with cash equivalents of £124 million; and
  - Eni (UK) Limited's ultimate parent company, Eni SpA, being listed on the Milan and New York Stock Exchanges, with total assets of €74,251 million, as of 31 December 2021.
  - Eni SpA being able to rely on credit ratings of:
    - A-/Stable/A-2 (Standard & Poor's) (22 December 2021); and
    - Baa1 (Long-term Credit Rating) (Moody's) (7 September 2022).
- 8.5.40. No Interested Parties have challenged the Applicant's Funding Statement [APP-029] or its responses to ExQs in regard to this matter. Indeed, no evidence seeking to contradict or challenge the Applicant's position on funding has been entered into the Examination and based on the information before the ExA and it is satisfied that the necessary funds are available to the Applicant.

## **8.6. MATTERS RAISED IN THE EXAMINATION/ OBJECTIONS TO CA AND TP**

- 8.6.1. At the start of the Examination, the following APs objected to or raised concerns in regard to CA and TP proposals:
- Cadent Gas Limited [RR-006].
  - CRT [RR-008].
  - EA [RR-024].
  - Essar Oil UK Ltd [RR-002].
  - Exolum Pipeline Systems Limited [RR-033].
  - Network Rail (England and Wales) (NR) [RR-026].
  - National Grid Electricity Transmission PLC (NGET) [RR-062]/ National Grid Gas PLC (NGG) [RR-063].
  - NH [RR-064].
  - Natural Resources Wales (NRW) [RR-066].
  - Scottish Power Energy Networks (SPEN) [RR-075].
  - United Utilities Water (UUW) [RR-080].
  - Dŵr Cymru Welsh Water (DCWW) [RR-023].
  - A White Events Limited [RR-027].
  - Peel NRE Limited [RR-078].
  - Travelodge Hotels Limited [RR-011].
  - Ian Bentley [RR-044].

- John Horace George Bletcher [RR-055].
- Mr David John Brown, Mr James Edward Brown, and Mrs Ruth Brown [RR-073].
- J.G. & M.A. Brown and Son [RR-045].
- Messrs MJ & A Cheers [RR-032].
- David Leigh Connah [RR-043].
- Brian Cook [RR-005].
- Emma Clare Craven-Smith-Milnes [RR-071].
- The Executors of Mrs Gwyneth Evans Deceased [RR-052].
- Sarah Harley [RR-074].
- Peter Hardern [RR-050].
- The Hewitt Family [RR-053].
- Andrew and Karen Hirst [RR-041].
- Mr B., Mrs S. & Mr M. Jones (Mollington) [RR-047].
- Frances Isobel Jones, Kevin Glyn Jones, and Sarah Ann Jones [RR-072].
- Michael A. Jones and Sarah M. Jones and T. Benjamin Jones [RR-047].
- Richard Benjamin Jones (R B & J Jones and Son) [REP1-081].
- Andrew Mullock [RR-042].
- Messrs H W Oultram & Co, Miss C Oultram & Messrs S & A Oultram [RR-030].
- John Calvin Peers [RR-046].
- Myles David Platt [RR-049].
- Stephanie Roberts [RR-051].
- Gillian Stevenson [RR-037].
- Messrs AM & JM Walton [RR-028].
- Philip Warrington [RR-068] and Vera Elaine Warrington [RR-082].
- Mr E. and Mrs J. Williams [RR-048].
- Messrs EE & JE Williams [RR-029].
- Messrs J & E Williams [RR-069].
- Carl Woods [RR-009].
- Messrs J Wrench & Son [RR-031].

8.6.2. Additionally, the EA in its Relevant Representation (RR) [RR-024] the EA advised it was "...unable to confirm that there are no objections to the acquisition of any of our land interests."

8.6.3. Comments regarding the CA and TP proposals, which neither objected nor raised concerns, were also received from:

- 2 Sisters Food Group [RR-001]/ Boparan Private Office [RR-004].
- British Pipeline Agency (also referred to as United Kingdom Oil Pipelines Limited) [AS-075].
- CF Fertilisers (UK) Limited [RR-081].
- Gavin Goodwin [RR-036].
- John Littler [RR-056].
- Paul Smith [RR-067].

8.6.4. [AS-073] was submitted during the Examination by J Bradburn Price and Co, on behalf of a number of APs who had already objected to or raised concerns in regard to CA and TP at the start of the Examination.

However, it also included three number APs and raised objections in regard to CA and TP on their behalf. These new APs are listed below:

- Michelle Elford [AS-073].
- Mr & Mrs K.N. Garner [AS-073].
- Mr R, Mrs N., Mr I & Mr G Jones [AS-073].

8.6.5. In addition to the above, CWCC and FCC made comments regarding CA/TP throughout the Examination. However, their positions changed following NH’s objection regarding CA/ TP, as set out above. Acting as Highway Authority for their respective jurisdiction:

- CWCC raised objection to CA/TP in its submission submitted at DL7 (Tuesday 5 September 2023) [REP7-306]; and
- FCC raised objection to CA/TP in its submission submitted at DL8 (Tuesday 12 September 2023) [REP8-044]).

8.6.6. Throughout the Examination, the ExA was kept updated on how matters were progressing with the above-mentioned parties by means of a CA Schedule.

8.6.7. Only one formal notification of withdrawal of objection/ concern was received from U UW [REP9-018]. The ExA is satisfied that this objection/ concern is now withdrawn, and that PP have been agreed which offer the necessary protections for this AP. Additionally, in regard to APs who made comments regarding the CA and TP proposals, as listed above, the ExA is satisfied these submissions were neither objections nor concerns.

8.6.8. Therefore, regarding the APs referred to in the preceding paragraph, the ExA is satisfied there are no outstanding issues or circumstances which would indicate that the CA powers sought in relation to the affected plots should not be granted. As a result, the ExA does not consider them further below (except insofar as they are relevant to its consideration of the specific provisions of the dDCO in Chapter 9 of this report).

8.6.9. At the close of the Examination, except for U UW, all remaining objections/ concerns from the APs listed above remained outstanding.

8.6.10. Table 4 below sets out details of the plots affected by the outstanding objections and provides the Examination Libraries Reference, under the heading ‘Representations’, received from the APs listed.

**Table 4: Objections to CA and TP outstanding at close of the Examination**

AP	Plot Affected	Representation
Cadent Gas Limited.	2-04, 2-04a, 2-05, 2-06, 2-08, 2-12, 2-13, 3-01, 3-02, 3-03, 3-13, 3-14, 3-15, 4-01, 4-02,	[RR-006], [REP1-052], [REP3-040], [REP7-279] and [REP8-039].

AP	Plot Affected	Representation
	4-05, 6-09, 6-20, 6-22, 6-24, 6-25, 9-01, 9-03, 9-05, 9-06, 9-07, 9-08, 9-09, 9-10, 9-12, 9-13, 9-14, 9-14a, 9-15, 9-18a, 9-18b, 9-19, 9-19a, 9-20, 10-01, 10-04, 10-04a, 10-12 and 12-05.	
Canal and River Trust.	8-03 and 9-06.	[RR-008], [AS-065], [CR1RR-002], [REP1-054], [REP1-055], [REP1-056], [REP1-057], [REP2-048], [REP3-041], [REP4-271], [REP4-272], [REP4-273], [REP5-027], [REP5-028], [REP6-038], [REP7-265], [REP8-040].
EA	1-01a, 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, 6-02, 6-03, 6-06, 6-07, 6-10, 6-11, 6-14, 6-17, 6-19, 6-23, 9-14a, 9-16, 9-16a, 9-16b, 9-17 and 12-10.	[RR-024], [REP1-062], [REP1-084], [REP3-045], [REP4-279], [CR1RR-004], [REP5-033], [REP6-041], [REP6A-021], [REP7-309] and [REP8-043].
Essar Oil UK Ltd.	3-04, 3-06, 3-07, 3-08, 3-09, 3-10, 3-11, and 3-12.  At the close of the Examination Essar Oil UK Ltd were reviewing plots 3-05 and 3-15 to confirm their accuracy.	[RR-002].

<b>AP</b>	<b>Plot Affected</b>	<b>Representation</b>
Exolum Pipeline Systems Limited.	6-27, 6-28, 7-07, 7-08, 7-09, 7-10, 8-01, 8-02, 8-09 and 8-10.	[RR-033], [REP8-050] and [REP8-051].
NR.	1-06b, 1-23, 9-21, 9-23, 9-24, 9-25, 14-24, 14-29, 17-12, 19-04 and 19-04c.	[RR-026], [PDA-008] and [REP1-072].
NGET/ NGT.	<p>NGET: 1-01, 1-01a, 1-02, 1-03, 1-06, 1-06a, 1-06b, 1-06d, 1-20, 1a-01, 1a-02, 1a-03, 2-02, 2-02a, 2-03, 2-04, 2-04a, 2-05, 2-06, 2-08, 2-09, 2-10, 2-11, 2-13, 3-03, 3-06, 3-11, 3-12, 3-14, 3-15, 4-02, 4-04, 4-06, 4-09, 4-10, 4- 11, 4-12, 4-13, 4-14, 4-15, 4-19, 7-07, 7-09, 7-10, 8-05, 8-06, 8-07, 8-09, 8-10, 8-12, 8-15, 8-16, 13-01, 13-02, 13-03, 16-29, 20-12, 20-13, 20-14, 20-17, 20-18, 20-19, 20-20 and 29-02.</p> <p>NGT: 1a-01, 1a-02, 7-03, 7-03a, 7-03b, 7-04, 7-06 and 7-07.</p>	<p>NGET – [RR-062] and [REP1-067].</p> <p>NGT - [RR-063] and [REP1-066].</p>
NH.	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,	[RR-064], [PDA-007], [REP1-068], [REP1-069], [REP2-049], [REP4-290], [REP5-050], [REP5-051], [REP6-046], [REP6-047], [REP6-048],



AP	Plot Affected	Representation
	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 and 9-13.	[REP6A-023], [REP7-316] and [REP8-046],
Local Authorities	<p>CWCC</p> <p>1-06c, 1a-01, 1a-02, 1a-04, 2-04, 2-04a, 2-08, 2-09, 2-10, 2-11, 2-13, 3-01, 3-05, 3-13, 3-14, 3-15, 4-03, 4-04, 4-09, 4-10, 4-17, 4-18, 4-19, 5-09, 5-14, 5-20, 5-21, 5-22, 5-23, 5-24, 5-25, 5-26, 6-01, 6-09, 6-14, 6-15, 6-16, 6-17, 6-18, 6-19, 6-21, 6-22, 6-23, 6-24, 6-25, 6-26, 7-01, 7-02a, 7-02b, 7-05, 7-08, 8-07, 8-08, 8-11, 8-14, 9-07, 9-08, 9-09, 9-10, 9-11, 9-12, 9-13, 10-01, 10-04, 10-04a, 10-06, 10-07, 10-11, 10-12, 10-15, 10-16, 10-17, 11-01, 11-06, 11-14, 12-05 and 12-06.</p> <p>FCC</p> <p>12-16, 12-17, 12-18, 12-19, 13-06, 13-10, 13-11, 13-12, 13-13, 13-15, 13-17, 13-18, 13-19, 14-02, 14-03, 14-04, 14-08, 14-11,</p>	<p>RR-012, REP1-058 to REP1-061 (Inclusive), REP1A-001 to REP1A-004 (Inclusive), REP2-045, REP2-046, REP3-042 to REP3-044 (Inclusive), CR1RR-003, REP4-274 to REP4-278 (Inclusive), REP5-029 to REP5-032 (Inclusive), REP6-039, REP6-040, REP6A-019, AS-080, REP7-299 to REP7-308 (Inclusive), REP8-041, REP8-041a and REP8-042</p> <p>RR-034, RR-035, REP1-063, REP1-077, REP1A-005, REP1A-006, REP2-047, REP3-046, REP3-047, CR1RR-006, REP4-285 to REP4-289 (Inclusive), REP5-035 to REP5-042 (Inclusive), REP6-042 to REP6-045</p>

AP	Plot Affected	Representation
	14-23, 14-24, 14-25, 14-27, 15-03, 15-04, 15-11, 15-13, 15-14, 16-06a, 16-08, 16-10, 16-12, 16-13, 16-14, 16-15, 16-18, 16-19, 16-20, 16-21, 16-23, 16-24, 16-25, 16-26, 16-27, 17-01, 17-03, 17-04, 17-06, 17-07, 17-08, 17-10, 17-11, 17-12, 17-13, 17-17, 17-18, 17-24, 17-25, 17-34, 17-39, 17-40, 17-42, 17-43, 17-44, 18-01, 18-02, 18-10, 18-11, 18-13, 18-14, 18-16, 18-17, 18-18, 18-19, 18-20, 18-21, 18-24, 18-26, 18-27, 18-32, 19-02, 19-03, 19-04, 19-04a, 19-04c, 19-04d, 19-11, 19-12, 19-13, 20-03, 20-04, 20-05, 20-06, 20-10a, 20-16, 20-17, 20-18, 20-19, 20-19b, 20-20, 20-21, 20-27, 20-29, 21-02, 21-04, 21-06, 22-01, 22-02, 22-04, 22-07, 22-08, 22-09, 22-10, 25-05, 25-08,	(Inclusive), AS-078, REP7-310 to REP7-313 (Inclusive), and REP8-044.

AP	Plot Affected	Representation
	25-09, 25-10, 28-02 and 29-01.	
NRW.	12-21, 13-01, 13-02, 13-03, 13-04, 13-05, 13-06, 13-07, 13-08, 13-10, 13-11, 13-12, 13-13, 13-17, 13-19, 14-04, 14-05, 14-06, 14-07, 14-08, 14-14, 14-14a, 14-20, 14-26, 15-03, 16-01, 16-06a, 16-08, 16-10, 16-14, 16-16 and 16-17.	[RR-066], [AS-074], [AS-079], CR2RR-002], [REP1-071], [REP2-053], [REP3-048], [REP4-291], [REP5-044, [REP6-049], [REP6A-024] and [REP7-318].
SPEN.	1-01, 1-01a, 1-02, 1-04, 1-05, 1-06, 1-06a, 1-06b, 1-06c, 1-06d, 1-08, 1-09, 1-11, 1-12, 1-13, 1-14, 1-15, 1-17, 1-18, 1-24, 1-25, 1a-01, 1a-02, 1a-03, 2-04, 2-04a, 2-05, 2-06, 2-08, 2-09, 2-10, 2-11, 3-06, 3-11, 3-12, 3-14, 3-15, 3-16, 3-17, 3-18, 3-18a, 4-11, 4-12, 4-15, 4-18, 4-19, 4-20, 5-01, 5-02, 5-03, 5-07, 5-08, 5-10, 5-13, 5-14, 5-16, 7-07, 7-08, 8-15, 9-01, 9-03, 9-05, 9-22, 9-25, 10-01, 10-02, 10-04, 10-04a, 10-07, 10-08, 10-10, 10-12, 10-13, 11-06, 11-07, 11-08, 11-13, 11-14, 11-16,	[RR-075].

AP	Plot Affected	Representation
	11-17, 12-05, 12-06, 12-09, 12-10, 12-13, 12-14, 12-16, 12-17, 12-20, 12-21, 13-01, 13-02, 13-03, 13-04, 13-05, 13-06, 13-08, 13-09, 13-10, 13-11, 13-12, 13-13, 13-20, 13-21, 14-14, 14-14a, 14-20, 14-22, 14-28, 14-30, 15-01, 15-07, 15-11, 15-12, 15-13, 15-14, 16-12, 16-13, 16-14, 16-15, 16-18, 16-19, 16-20, 16-21, 16-22, 16-23, 16-24, 16-26, 16-27, 16-28, 16-28a, 16-29, 16-30, 17-02, 17-03, 17-04, 17-06, 17-07, 17-08, 17-12, 17-13, 17-16, 17-17, 17-19, 17-29, 17-31, 17-33, 17-34, 17-37, 17-39, 17-40, 17-44, 18-01, 18-02, 18-03, 18-04, 18-05, 18-10, 18-11, 18-12, 18-13, 18-14, 18-16, 18-19, 18-24, 18-26, 18-27, 18-28, 18-30, 18-31, 18-32, 18-33, 19-04, 19-04a, 19-04b, 19-04c, 19-04d,	

AP	Plot Affected	Representation
	19-05, 19-06, 19-07, 19-08, 19-09, 19-12, 19-13, 20-03, 20-04, 20-05, 20-06, 20-08, 20-10a, 20-11, 20-12, 20-19, 20-19a, 20-20, 20-24, 20-25, 20-26, 21-05, 22-07, 22-08, 22-09, 22-10, 25-08, 25-10, 27-02, 28-03 and 29-05.	
DCWW.	9-22, 10-04, 10-04a, 10-13, 10-14, 10-15, 10-16, 10-17, 11-01, 11-05, 11-06, 11-07, 11-08, 12-10, 12-20, 13-18, 15-07, 15-08, 15-09, 15-11, 15-12, 15-13, 16-01, 16-05, 16-09, 16-09a, 16-10, 16-11, 16-11a, 16-12, 16-13, 16-14, 16-15, 16-17, 16-18, 16-19, 16-20, 16-22, 16-23, 16-24, 16-25, 16-26, 16-27, 16-28, 16-28a, 16-29, 16-30, 17-03, 17-05, 17-06, 17-08, 17-12, 17-13, 17-16, 17-17, 17-20, 17-21, 17-25, 17-26, 17-30, 17-32, 17-33, 17-34, 17-36,	[RR-023].

AP	Plot Affected	Representation
	17-37, 17-38, 17-39, 17-40, 17-41, 17-42, 17-43, 17-44, 18-01, 18-02, 18-03, 18-04, 18-05, 18-10, 18-11, 18-13, 18-14, 18-17, 18-22, 18-23, 18-24, 18-25, 18-26, 18-27, 18-32, 18-33, 19-05, 19-08, 19-12, 19-13, 20-01, 20-02, 20-03, 20-04, 20-05, 20-06, 20-10, 20-10a, 20-27, 21-02, 21-03, 22-01, 22-02, 22-03, 22-04, 22-05, 28-02 and 36-01.	
A White Events Limited.	16-20 and 16-22.	[RR-027] and [REP4-284].
Encirc Limited.	1-01, 1-01a, 1-02, 1-03, 1-06, 1-06a, 1-06b, 1-06c, 1-06d, 1-20, 1-21, 1-22, 1a-01, 1a02 and 1a-03.	[CR1RR-005], [REP3-050], [REP4-280], [REP5-034], [REP6A-022], [REP7-321], [REP7-322] and [REP7-323].
Peel NRE Limited	1-01, 1-01a, 1-02, 1-03, 1-04, 1-05, 1-06, 1-06a, 1-06b, 1-06c, 1-06d, 1-08, 1-09, 1-10, 1-11, 1-12, 1-13, 1-14, 1-15, 1-16, 1-17, 1-18, 1-19, 1a01, 1a-02, 1a-03 and 1a-04.	[RR-078], [AS-068], [REP1-073], [REP1-074], [REP1-075], [REP1-085], [REP2-050], [REP3-049], [REP5-045], [REP5-046], [REP5-047], [REP5-048], [REP6-050], [REP7-326], [REP8-047] and [REP8-048].

<b>AP</b>	<b>Plot Affected</b>	<b>Representation</b>
Travelodge Hotels Limited.	19-06.	[RR-011] and [PDA- 010].
Ian Bentley.	15-13, 15-14, 16-02, 16-16, 16-17 and 17-43.	[RR-044] and [AS-073].
John Horace George Bletcher.	20-16, 20-17, 20-18, 20-19, 20-19a, 20-19b, 20-19c, 20-20 and 20-21.	[RR-055] and [REP1-080].
Mr David John Brown, Mr James Edward Brown, and Mrs Ruth Brown.	2-01*, 2-02, 2-02a, 2-03, 2-08*, 2-09, 2-11, 2-12, 2-13, 2-14, 3-02, 3-03, 4-01, 4-02, 4-03, 4-04, 4-05, 4-06, 4-07, 4-09, 4-10, 4-11, 4-12, 4-13*, 4-15, 4-16, 4-17 and 4-18.  * Notifies Mrs Ruth Brown is not listed in the BoR against that plot number.	[RR-073].
J.G. & M.A. Brown and Son.	17-13, 17-15, 17-16, 17-17, 17-18, 17-19, 17-20 and 17-21.	[RR-045] and [AS-073].
Messrs MJ & A Cheers.	8-16, 9-01, 9-02, 9-03, 9-04 and 9-05.	[RR-032].
David Leigh Connah.	17-13, 17-15, 17-16, 17-17, 17-18, 17-19, 17-20 and 17-21.	[RR-043] and [AS-073].
Brian Cook.	10-07.	[RR-005].

AP	Plot Affected	Representation
Emma Clare Craven-Smith-Milnes and Anthony David Wynne Griffith.	<p>3-17*, 3-18, 3-18a, 4-07*, 4-08, 4-10*, 4-13*, 4-14, 4-19, 5-01**, 5-02**, 5-03**, 5-07, 5-08 and 5-09*</p> <p>* Signifies Anthony David Wynne Griffith is not listed in the BoR against that plot number.</p> <p>**Signifies only Emma Clare Craven-Smith-Milnes is not listed in the BoR against that plot number.</p>	<p>[RR-071]***, [REP1-079] and [REP5-045].</p> <p>*** Signifies only Emma Clare Craven-Smith-Milnes was referred to in this RR. Emma Clare Craven-Smith-Milnes and Anthony David Wynne Griffith were first listed together in [REP1-079].</p>
Michelle Elford.	17-28.	[AS-073].
The Executors of Mrs Gwyneth Evans Deceased.	17-40, 17-42, 17-44, 18-01, 18-02, 18-30, 18-31 and 18-32.	[RR-052], [AS-072] and [AS-073].
Mr & Mrs K.N. Garner.	16-04.	[AS-073].
Sarah Harley.	5-13, 5-14, 5-16, 5-17, 5-18, 5-19, and 5-20.	[RR-074].
Peter Harden. (Note – the RR and Additional Submission were written in the name of Peter Hardern. However, no Peter Hardern appears in the BoR, although under a different spelling of the name 'Peter Harden' there	16-05, 16-27, 16-28, 16-28a and 16-29.	[RR-050] and [AS-073].



AP	Plot Affected	Representation
are eleven entries listed in the BoR against five plot nos.		
The Hewitt Family.	19-07, 19-08, 19-09 and 19-11.	[RR-053] and [AS-073].
Andrew and Karen Hirst.  (Note – There is no Andrew and Karen Hirst in BoR, however, there is an Andrew John Hirst and Rachael Hirst.	16-03 and 16-03a.	[RR-041], [AS-070] and [AS-073].
Michael A. Jones and Sarah M. Jones and T. Benjamin Jones. ([AS-073 refers to these APs as Mr B., Mrs S. & Mr M. Jones (Mollington)).	10-08, 10-10, 10-12, 10-14, 10-17, 10-18, 10-19, 11-01, 11-02, 11-03, 11-05 and 11-06.	[RR-047] and [AS-073]
Frances Isobel Jones, Kevin Glyn Jones, and Sarah Ann Jones.	20-30, 21-01, 21-06, 21-07, 22-01, 22-02, 22-03, 22-04, 22-05, 22-06, 22-07, 22-08, 22-09 and 22-10.	[RR-072].
Mr R, Mrs N., Mr I & Mr G Jones.	6-26*, 6-29, 6-30, 6-31, 7-01, 7-02b, 7-03, 7-03a, 7-03b and 7-04.  * Signifies Mr G Jones is not listed in the BoR against this plot number.	[AS-073].
Richard Benjamin Jones (R B & J Jones and Son).	9-22, 10-01*, 10-02, 10-04*, 10-09, 10-11, 10-12*, 10-13, 10-15*, 10-16* and 10-17*	[REP1-081].

<b>AP</b>	<b>Plot Affected</b>	<b>Representation</b>
	* Notifies R B & J Jones and Son is not listed in the BoR against that plot number.	
Andrew Mullock.	15-07, 15-08, 15-09 and 15-12.	[RR-042] and [AS-073].
Messrs H W Oultram & Co, Miss C Oultram & Messrs S & A Oultram.	18-02, 18-03, 18-04, 18-05, 18-06, 18-07, 18-10, 18-11, 18-13, 18-14, 18-16, 18-18, 18-19, 18-20, 18-20a, 18-21, 18-22, 18-23, 18-24, 18-25, 19-03, 19-04, 19-04a, 19-04b, 19-04c and 19-04d.	[RR-030], [CR1RR-010], [PDA-006], [REP1-082], [REP4-292], [REP6-051], [REP6-052] and [REP7-325].
John Calvin Peers.	19-13 and 20-04.	[RR-046], [AS-071] and [AS-073].
Myles David Platt.	11-04.	[RR-049].
Stephanie Roberts.	15-05 and 15-06	[RR-051] and [AS-073].
Gillian Stevenson.	12-05, 12-06 and 12-07.	[RR-037].
Messrs AM & JM Walton.	9-01 and 9-02.	[RR-028].
Philip Warrington and Vera Elaine Warrington.	12-02, 12-06, 12-07, 12-08 and 12-10.	[RR-068] (Philip Warrington) and [RR-082] (Vera Elaine Warrington).
Mr E. and Mrs J. Williams.	17-26.	[RR-048] and [AS-073].

<b>AP</b>	<b>Plot Affected</b>	<b>Representation</b>
Messrs EE & JE Williams.	17-42, 17-44, 18-01, 18-33, 19-01, 19-02 and 19-03.	[RR-029], [RR-069], [AS-067] and [REP4-282].
Carl Woods.	7-02 and 7-02a.	[RR-009].
Messrs J Wrench & Son.	14-11, 14-14, 14-14a, 14-20, 14-21, 14-22, 14-26, 14-28, 14-30, 14-30a, 15-01, 15-01a, 15-02 and 15-02a.	[RR-031] and [REP4-283].

## **8.7. OBJECTIONS OUTSTANDING AND THE ExA'S RESPONSE**

8.7.1. The ExA has read through all the objections set out in RR and WR, subsequent submissions, and submissions made at the CAHs. Many of the issues raised by objectors have been considered by the ExA in Chapters 4 and 5 when considering the planning issues arising in relation to consideration of the grant of the dDCO, including, for example, the Local Authorities Local Impact Reports and the impact of the Proposed Development on best and most versatile agricultural land. As a result, the objections are considered here only in the context of the application for the grant of CA powers. Turning now to the objections themselves and related matters, the ExA has considered them in the following order:

- Generic objections;
- Non-generic objections; and
- SUs.

### **Generic objections**

8.7.2. These objectors were represented by a small number of agents who submitted, in most instances, a standard objection on behalf of a number of different Clients to the Proposed Development. Each agent is listed below, along with the RR reference number that lists an objection from a different individual to CA made by that agent.

- Fisher German LLP ([RR-027], [RR-028], [RR-029], [RR-030], [RR-031], and [RR-032]).
- J. Bradburne Price and Co. ([RR-041], [RR-042], [RR-043], [RR-044], [RR-045], [RR-046], [RR-047], [RR-048], [RR-049], [RR-050], [RR-051], [RR-052], [RR-053] and [AS-073]).
- Rostons: ([RR-072], [RR-073] and [REP1-080]).

8.7.3. These objections to CA/ TP, on behalf of their clients, were on the following summarised grounds:

- The lack of clarity as to the exact line of the pipeline and the associated easement, including permanent rights of access to the pipeline; as well as Applicants responsibility regarding liability, indemnities and insurance, including in relation to premiums.
- The uncertainty caused, including in regard to the rights that will be taken through the property, limiting the ability to plan and make long term decisions for that land/ property.
- The 24m easement being excessive, not been justified, and potentially sterilising large areas through the land/ property and, where relevant, preventing appropriate development and restricting other operations, including some agricultural operations.
- Heads of Terms and Option Agreements remaining in a format that is unacceptable especially in regard to:
  - the extent of land detailed being excessive and beyond what is reasonably required; and
  - the sterilisation of the land for the period of the option, being potentially up to 8 years.
- No proposals or specifications being available in relation to all aspects of accommodation works required, both during and post construction, including in relation to land drainage, fencing, retention of all utility services, crossing points to working width, timescale and specification for reinstatement and other day to day encumbrances.
- Lack of detail available as to the number, size and location of manholes, vents, marker posts and other such structures which may be constructed along the line of the pipe, with no provision for agreement with the affected landowner/ occupier, as to the location of these structures, being in place.
- Potential impact upon potential capital and rental values.
- Potential blight caused by ongoing uncertainty as to the exact location of the pipeline and the associated easement.
- Lack of positive engagement.
- Land parcels being severed resulting in loss of access, irregularly shaped fields, severing of services, issues in relation to management of purchase strip, etc.
- The use of CA powers (if granted) if the pipeline lease cannot be entered into consensually.

**A White Events Limited (Agent: Fisher German LLP)**

8.7.4. A White Events Limited raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-027]. In addition, this RR also raised concerns regarding:

- the sterilising of an area set aside for building expansion; and
- the loss of a fundamental element of the attraction, throughout the construction phase of the Proposed Development (A fully narrated tractor ride), which cannot be relocated and if lost will significantly reduce the turnover of the business, resulting in job cuts.

8.7.5. In regard to the tractor ride, its loss and the resultant knock-on effect, the response of the Applicant in its 'Comments on Submissions Received at DL4' [REP5-015] are noted, which states "*The Applicant shall maintain*

*access across the working spread at agreed crossing points, sequencing works to avoid severance to the tractor ride route” (Reference 2.13.1).*

8.7.6. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot nos. 16-20 and 16-22. No permanent acquisition of surface level land is being sought.

8.7.7. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos. over which new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). However, no new rights are listed in this Schedule in relation to the above-mentioned plot nos. Furthermore, no TP of land related to A White Events Limited is listed within the dDCO at Schedule 7 (Land of which TP may be taken), nor is any TP relevant to A White Events Limited specified in the BoR [REP7-025] or in the Land Plans [CR3-003].

**Messrs AM & JM Walton (Agent: Fisher German LLP)**

8.7.8. Messrs AM & JM Walton raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in its RR [RR-028].

8.7.9. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot nos. 9-01. No permanent acquisition of surface level land is being sought in relation to this AP.

8.7.10. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos. where the permanent acquisition of rights/ new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. and confirms no permanent/ new rights are being sought in regard to this AP (Messrs AM & JM Walton).

8.7.11. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Messrs AM & JM Walton) TP is sought in relation to plot no. 9-02 and as set out by the Applicant in Schedule 7 of the dDCO, the purpose for which TP is sought is given as *“Temporary use as a construction access and working area...”*

**Messrs EE & JE Williams (Agent: Fisher German LLP)**

8.7.12. Messrs EE & JE Williams concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-029] and [RR-069]. In addition, the RRs also raised impacts to farm operations, especially in relation to the spreading of slurry (maximum limit of 170kg/ ha of nitrogen permitted for spreading from 1 April 2023 in Wales) and the resultant implications, including compliance with Regulations. It alleges

the loss of the land will have a serious financial impact to the farming business with a potential reduction in the herd being required and hence reduced turnover, leading to possible job cuts. The concerns set out in these RRs were also included in [REP4-282] submitted on behalf of Messrs E & J Williams submitted at DL4 following oral submissions at CAH1. Additionally, Mr J. Williams addressed the ExA during ISH1 and CAH1 to highlight concerns that had already been set out in writing on his behalf and already summarised above.

- 8.7.13. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot nos. 17-44 and 19-01; whilst permanent acquisition of subsurface is being sought in relation to plot nos. 17-42, 18-33, 19-02 and 19-03.
- 8.7.14. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos. where the permanent acquisition of rights/ new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. and confirms no permanent/ new rights are being sought in regard to this AP (Messrs EE & JE Williams).
- 8.7.15. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Messrs EE & JE Williams) the plot no. listed in regard to TP is 19-01, where Schedule 7 of the dDCO states the purpose for which this plot is being sought is "*Temporary use as a working area, access and public right of way diversion...*"

**Messrs J Wrench & Son (Agent: Fisher German LLP)**

- 8.7.16. Messrs J Wrench and Son raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-031]. In addition, this RR also alleges the Proposed Development will sterilise an area set aside for building expansion; and result in serious impact to the farm's grazing and forage areas for the dairy herd. It considers the reduced grazing area will require the herd to be buffer fed inside the farm buildings and increasing the carbon footprint of the farm business. The RR indicates that both of these concerns would potentially breach the milk contract, resultant financial penalties, and would have financial implications to the business (ie cost of sourcing additional buffer feed, financial penalties from milk purchaser, Etc.).
- 8.7.17. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface being sought in relation to plot nos. 14-28, 14-30 and 15-01. No permanent acquisition of surface level land is being sought.

- 8.7.18. In addition, the above-mentioned documents indicated the permanent acquisition of rights are being sought in regard to Plot No. 14-11, 14-14a, 14-20, 14-21, 14-22 and 15-02a.
- 8.7.19. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of this AP (Messrs J Wrench and Son) these new rights would apply to plot no 14-11, 14-14a, 14-20, 14-21, 14-22 and 15-02a for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose restrictive covenants.
- 8.7.20. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Messrs J Wrench and Son) the plot nos. listed are 14-14, 14-26, 14-30a, 15-01a and 15-02. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:

- Temporary use as a construction compound and working area.
- Temporary use as a construction access.
- Temporary use as a construction access and working area.

**Messrs MJ & A Cheers (Agent: Fisher German LLP)**

- 8.7.21. Messrs MJ & A Cheers raised concerns in regard to CA/ TP as summarised in paragraph 8.7.3 above, in their RR [RR-032]. In addition, this RR also alleges the Proposed Development will sterilise an area set aside for building expansion.
- 8.7.22. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot nos. 8-16, 9-01 and 9-03. No permanent acquisition of surface level land is being sought.
- 8.7.23. In addition, the above-mentioned documents indicated the permanent acquisition of rights are being sought in regard to Plot No. 9-04.
- 8.7.24. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of these APs (Messrs MJ & A Cheers) these new rights would apply to plot no 9-04 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose a restrictive covenant.
- 8.7.25. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is

being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of these APs (Messrs MJ & A Cheers) the plot nos. listed are 9-02 and 9-05. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for these plots are being sought is stated to be "*Temporary use as a construction access and working area...*"

**Andrew and Karen Hirst (Agent: J. Bradburne Price and Co.)**

- 8.7.26. Andrew and Karen Hirst raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-041] with similar concerns also being raised in their agents notification of attendance at Hearings [AS-073]. In addition, the RR raised concerns related to the inclusion of a recently constructed ménage, and part of the residential curtilage to the property. The RR requested these areas be removed from the DCO and that the area subject to the easement rights relates solely to the pasture paddock and does not include any part of the equestrian facilities or residential curtilage. Similar concerns were raised by his agent in Additional Submission [AS-073].
- 8.7.27. Mr. Peter Lewis of J. Bradburne Price and Co., appeared on behalf this AP during CAH1 [EV-014] [EV-015] and [EV-016], where, when questioned by the ExA in regard to residential curtilage he confirmed the plot nos. in question would still be agricultural in terms of its use under planning law ([EV-015] timed at 01:34:03).
- 8.7.28. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot no. 16-03. No permanent acquisition of surface level land is being sought in relation to this AP (Andrew and Karen Hirst).
- 8.7.29. In addition, the above-mentioned documents indicated the permanent acquisition of rights are being sought in regard to Plot No. 16-03a.
- 8.7.30. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of this AP (Andrew and Karen Hirst) these new rights would apply to plot no. 16-03a for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose a restrictive covenant.
- 8.7.31. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Andrew and Karen Hirst) the Applicant is not seeking any TP of land.

**Andrew Mullock (Agent: J. Bradburne Price and Co.)**



- 8.7.32. Andrew Mullock raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-042], with similar concerns also being raised in his agents notification of attendance at Hearings [AS-073]
- 8.7.33. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot nos. 15-07, 15-08 and 15-12. No permanent acquisition of surface level land is being sought.
- 8.7.34. In addition, the above-mentioned documents indicated the permanent acquisition of rights are being sought in regard to Plot No. 15-09.
- 8.7.35. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of this AP (Andrew Mullock) these new rights would apply to plot no 15-09 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose a restrictive covenant.
- 8.7.36. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this APs (Andrew Mullock) the BoR and Land Plans confirm no TP is being sought.

**David Leigh Connah (Agent: J. Bradburne Price and Co.)**

- 8.7.37. David Leigh Connah raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-043], with similar concerns also being raised by his agent in Additional Submission [AS-073].
- 8.7.38. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot no. 17-21; whilst permanent acquisition of subsurface is being sought in relation to plot nos. 17-13, 17-15 and 17-20.
- 8.7.39. In addition, the above-mentioned documents indicated the permanent acquisition of rights are being sought in regard to Plot No. 17-17, 17-18 and 17-19.
- 8.7.40. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of this AP (David Leigh Connah) these new rights would apply to plot nos. 17-17, 17-18 and 17-19 for rights for the purposes of the construction, installation, operation, maintenance and

decommissioning of the authorised development and to impose a restrictive covenant.

- 8.7.41. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (David Leigh Connah) the plot no. listed is 17-16. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which this plot is being sought is "*Temporary use as a construction access and working area...*"

**Ian Bentley (Agent: J. Bradburne Price and Co.)**

- 8.7.42. Ian Bentley raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-044], with similar concerns also being raised by his agent in Additional Submission [AS-073].
- 8.7.43. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot no. 17-43; whilst the permanent acquisition of subsurface is being sought in relation to plot nos. 15-13, 16-02 and 16-16. In addition, the above-mentioned documents indicated the permanent acquisition of rights are being sought in regard to Plot No. 15-14.
- 8.7.44. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of Ian Bentley these new rights would apply to plot no. 15-14 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose a restrictive covenant.
- 8.7.45. With regard to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Ian Bentley) the plot no. listed is 16-17. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies. However, in terms of Plot No. 16-17 the Applicant is seeking is temporary use as a working area.

**J.G. & M.A. Brown and Son (Agent: J. Bradburne Price and Co.)**

- 8.7.46. J.G. & M.A. Brown raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-045], with similar concerns also being raised in their agents notification of attendance at Hearings [AS-073].
- 8.7.47. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003]

permanent acquisition of land is being sought in relation to plot no. 17-21; whilst the permanent acquisition of subsurface is being sought in relation to plot nos. 17-13, 17-15 and 17-40.

- 8.7.48. In addition, the above-mentioned documents indicated the permanent acquisition of rights are being sought in regard to Plot Nos. 17-17, 17-18 and 17-19.
- 8.7.49. The BoR [REP7-025] and Land Plans [CR3-003], whilst the dDCO at Schedule 8 (Land in which new rights etc., may be acquired), specified what new rights are being sought. This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of this AP these new rights would apply to plot nos. 17-17, 17-18 and 17-19 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose a restrictive covenant.
- 8.7.50. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of these APs (J.G. & M.A. Brown) plot no. 17-16 is listed. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which this plot is being sought is stated to be "*Temporary use as a construction working area and access...*"

**John Calvin Peers (Agent: J. Bradburne Price and Co.)**

- 8.7.51. John Calvin Peers raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-046], with similar concerns also being raised in his agents notification of attendance at Hearings [AS-073]. In addition to the above, Mr. Peter Lewis of J. Bradburne Price and Co., appeared on behalf this AP during CAH1 [EV-014] [EV-015] and EV-016].
- 8.7.52. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot no 19-13; whilst the permanent acquisition of subsurface is being sought in relation to plot no. 20-04.
- 8.7.53. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos. where the permanent acquisition of rights/ new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. and confirms no permanent/ new rights are being sought in regard to this AP (John Calvin Peers).
- 8.7.54. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (John Calvin Peers) no TP is being sought.

8.7.55. In terms of oral evidence given on behalf of this AP at CAH1 [EV-015], Mr Lewis indicated residential development interest in regard to plot no. 19-13. However, when questioned by the ExA, it became clear no submissions had been made to the relevant authority, nor was there any Planning Permission, nor was the land designated for such use in the Local Development Plan. ([EV-015] timepoint 1:27).

**Mr B., Mrs S. & Mr M. Jones (Mollington) (Agent: J. Bradburne Price and Co.)**

8.7.56. Mr B., Mrs S. & Mr M. Jones (Mollington) raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-047], with similar concerns also being raised in their agents notification of attendance at Hearings [AS-073].

8.7.57. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot no. 11-03; whilst permanent acquisition of subsurface is being sought in relation to plot nos. 10-08, 10-10, 10-12, 10-18, 11-05 and 11-06.

8.7.58. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos. where the permanent acquisition of rights/ new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. and confirms no permanent/ new rights are being sought in regard to this AP (Mr B., Mrs S. & Mr M. Jones).

8.7.59. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Mr B., Mrs S. & Mr M. Jones) the plot nos. listed are 10-14, 10-17, 10-19, 11-01 and 11-02. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:

- Temporary use as a construction access.
- Temporary use as a construction access and working area.

**Mr E. and Mrs J. Williams (Agent: J. Bradburne Price and Co.)**

8.7.60. Mr E. and Mrs J. Williams raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-048], with similar concerns also being raised in their agents notification of attendance at Hearings [AS-073].

8.7.61. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot no. 17-26. No permanent acquisition of surface level land is being sought in relation to this AP.

- 8.7.62. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos. where the permanent acquisition of rights/ new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. and confirms no permanent/ new rights are being sought in regard to this AP (Mr E. and Mrs J. Williams).
- 8.7.63. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Mr E. and Mrs J. Williams) no TP is being sought.

**Myles David Platt (Agent: J. Bradburne Price and Co.)**

- 8.7.64. Myles David Platt raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-049].
- 8.7.65. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot no. 11-04. No permanent acquisition of surface level land is being sought in relation to this AP.
- 8.7.66. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos. where the permanent acquisition of rights/ new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. and confirms no permanent/ new rights are being sought in regard to this AP (Myles David Platt).
- 8.7.67. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Myles David Platt) no TP is being sought.

**Peter Harden (Agent: J. Bradburne Price and Co.)**

- 8.7.68. Peter Harden raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-050], with similar concerns also being raised in their agents notification of attendance at Hearings [AS-073].
- 8.7.69. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot nos. 16-05 and 16-27. No permanent acquisition of surface level land is being sought in relation to this AP (Peter Harden).

- 8.7.70. In addition, the above-mentioned documents indicated the permanent acquisition of rights are being sought in regard to Plot No. 16-28a and 16-29.
- 8.7.71. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of this AP (Peter Harden) these new rights would apply to plot no. 16-28a and 16-29 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose a restrictive covenant.
- 8.7.72. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Peter Harden) the plot no. listed is 16-28. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which this plot is being sought is "*Temporary use as a construction working area and access*".

**Stephanie Roberts (Agent: J. Bradburne Price and Co.)**

- 8.7.73. Stephanie Roberts raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-051], with similar concerns also being raised in her agents notification of attendance at Hearings [AS-073].
- 8.7.74. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot no. 15-05 and 15-06. No permanent acquisition of surface level land is being sought in relation to this AP.
- 8.7.75. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos. where the permanent acquisition of rights/ new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. and confirms no permanent/ new rights are being sought in regard to this AP (Stephanie Roberts).
- 8.7.76. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Stephanie Roberts) no TP is being sought.

**The Executors of Mrs Gwyneth Evans Deceased (Agent: J. Bradburne Price and Co.)**

- 8.7.77. The Executors of Mrs Gwyneth Evans Deceased (The Executors) raised concerns/ objections in regard to CA/ TP, as summarised in paragraph

8.7.3 above, in RR [RR-052], with similar concerns also being raised by her agent in Additional Submission [AS-073]. In addition, the Agent's also sent a further notification of attendance at Hearing specifically in regard to this client (The Executors) [AS-072] where it states: *"The land is subject to an Option Agreement with a national house builder to promote the site for residential development."* The same notification provided a summary of the proposed promotion/ application for the site, together with a site plan advising of an intention to submit an application in 2023/ 2024. Additionally, Mr. Peter Lewis of J. Bradburne Price and Co., appeared on behalf this AP during CAH1 [EV-014] [EV-015] and [EV-016].

- 8.7.78. [AS-072] suggests the loss of land to the Proposed Development by CA, would severely impact the viability and development of the remainder of the site, as it considers an additional area will need to be provided for the land lost resulting in the loss of housing units. The Additional submission also indicated *"...proposals make no allowance for loss of this development value or for any associated compensation."* It also considers the *"...identification of this land for mitigation purposes is unreasonable and excessive..."* having *"...significant implications to the landowner with little thought or consideration given to mitigating losses and impact..."*
- 8.7.79. A final concern regarding permanent rights of access taken across all of the site is raised by this Additional Submission. It considers such rights would sterilise the site and would be unreasonable and excessive. The Additional Submission also states the *"...implications of this are catastrophic in relation to the development of the site as theoretically/ legally no properties could be built anywhere as it would obstruct the rights of access being sought..."* and alleges *"...there is no requirement for such rights as there is road frontage onto which the pipeline leads."*
- 8.7.80. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot no 17-44; whilst the permanent acquisition of subsurface is being sought in relation to plot nos. 17-40, 17-42, 18-02, 18-30, 18-31 and 18-32.
- 8.7.81. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos. where the permanent acquisition of rights/ new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. and confirms no permanent/ new rights are being sought in regard to this AP (The Executors).
- 8.7.82. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (The Executors) plot no. 18-01 is listed within Schedule 7 of the dDCO, specifying the purpose for

which this plot is being sought as "*Temporary use as a working area, access and right of way diversion...*"

- 8.7.83. In terms of oral evidence given on behalf of this AP at CAH1 [EV-015], Mr Lewis repeated his clients concerns in regard to the option agreement with the national house builder and related residential development. It was confirmed that this interest related to plot no. 17-44 but when questioned by the ExA, it became clear no formal planning application had been made to the relevant authority and there was no Planning Permission for residential development in existence. Additionally, it was confirmed the land in question was not allocated in the Local Development Plan, which was formally adopted by FCC earlier in the year. ([EV-015] timepoint 1:24 onwards). As such there is no planning conflict with this plot.

**The Hewitt Family (Agent: J. Bradburne Price and Co.)**

- 8.7.84. The Hewitt Family raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-053], with similar concerns also being raised in their agents notification of attendance at Hearings [AS-073].
- 8.7.85. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot no. 19-07, 19-08, 19-09 and 19-11. No permanent acquisition of surface level land is being sought, nor is the Applicant seeking any permanent acquisition of rights regarding these plot no.
- 8.7.86. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. As set out above, in terms of this AP (The Hewitt Family) no new rights are set out in Schedule 8.
- 8.7.87. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (The Hewitt Family) no TP of land is proposed.

**Mr R., Mrs N., Mr I & Mr G Jones (Agent: J. Bradburne Price and Co.)**

- 8.7.88. Mr R, Mrs N., Mr I & Mr G Jones first raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in their agents notification of attendance at Hearings [AS-073].
- 8.7.89. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot nos. 6-26\*, 6-29, 6-30, 6-31, 7-01 and 7-04. No permanent acquisition



of surface level land is being sought. (Note: In this paragraph '\*' signifies Mr G. Jones is not listed in the BoR against that specific plot no.).

- 8.7.90. In addition, the above-mentioned documents indicated the permanent acquisition of rights are being sought in regard to Plot No. 7-02b, 7-03 and 7-03a.
- 8.7.91. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of these APs (Mr R, Mrs N., Mr I & Mr G Jones) these new rights would apply to plot no 7-02b, 7-03 and 7-03a for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose a restrictive covenant.
- 8.7.92. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of these APs (Mr R, Mrs N., Mr I & Mr G Jones) plot no. 7-03b is listed in Schedule 7 of the dDCO, and the purpose for which this plot is being sought is stated to be "*Temporary use as a construction access...*"

**Mr & Mrs K.N. Garner (Agent: J. Bradburne Price and Co.)**

- 8.7.93. Mr & Mrs K.N. Garner first raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in their agent's notification of attendance at Hearings [AS-073].
- 8.7.94. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot no. 16-04. No permanent acquisition of surface level land is being sought, nor is the Applicant seeking any permanent acquisition of rights regarding this plot no.
- 8.7.95. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. As set out above, in terms of this AP (Mr & Mrs K.N. Garner) no new rights are set out in Schedule 8.
- 8.7.96. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Mr & Mrs K.N. Garner) no TP of land is proposed.

**Michelle Elford (Agent: J. Bradburne Price and Co.)**

- 8.7.97. Michelle Elford raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in her agents notification of attendance at Hearings [AS-073].
- 8.7.98. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot no. 17-28. No permanent acquisition of surface level land is being sought, nor is the Applicant seeking any permanent acquisition of rights regarding this plot no.
- 8.7.99. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. As set out above, in terms of this AP (Michelle Elford) no new rights are set out in Schedule 8.
- 8.7.100. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Michelle Elford) no TP of land is proposed.

**John Horace George Bletcher (Agent: Rostons)**

- 8.7.101. John Horace George Bletcher (JHG Bletcher) raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-055] and in written representation [REP1-080] submitted by Rostons on his behalf. In addition, also in relation to CA/ TP, he also raised the following summarised concerns:
- Lack of willing and meaningful engagement, in particular regarding the AGI to be installed (the relocation of which has been sought to a more suitable position) that would permanently impact land crucial to the running of the family dairy farm enterprise.
  - Exacerbation of effects when considering other similar developments that, when considered in totality, will lead to the land being affected for several years.
  - Productive capacity of the land and impact upon the viability of the farming business, especially in relation to spread slurry (maximum limit of 170kg/ ha of nitrogen permitted for spreading from 1 April 2023 in Wales) and the resultant implications, including compliance with Regulations.
  - Increased bio-security risks and serious financial impact to the farming business resulting from the loss of the land, including:
    - additional land or slurry storage would be required; and
    - availability and need of additional feed from the herd having to be brought in.
- 8.7.102. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003]

permanent acquisition of land is being sought in relation to plot no. 20-19a; whilst the permanent acquisition of subsurface is being sought in relation to plot nos. 20-18, 20-19, 20-19c and 20-21. In addition, the above-mentioned documents indicated that no permanent acquisition of rights are being sought.

8.7.103. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of JHG Bletcher no new rights are being sought.

8.7.104. With regard to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (JHG Bletcher) the plot nos. listed are 20-16, 20-17, 20-19b and 20-20. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:

- Temporary use as a construction access.
- Temporary use as a construction compound and working area.

**Frances Isobel Jones, Kevin Glyn Jones, and Sarah Ann Jones  
(Agent: Rostons)**

8.7.105. Frances Isobel Jones, Kevin Glyn Jones, and Sarah Ann Jones (F.I., K.G. and S.A. Jones) raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-072].

8.7.106. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot no. 22-03, 22-06 and 22-10; whilst permanent acquisition of subsurface is being sought in relation to plot nos. 20-30, 21-01, 21-06, 22-01, 22-05, 22-07, 22-08 and 22-09.

8.7.107. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos. where the permanent acquisition of rights/ new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. and confirms no permanent/ new rights are being sought in regard to this AP (F.I., K.G. and S.A. Jones).

8.7.108. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (F.I., K.G. and S.A. Jones) the plot nos. listed are 21-07, 22-02 and 22-04. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:

- Temporary use as a construction access.
- Temporary use as a working area and access.
- Temporary use for and to construct an access.

**Mr David John Brown, Mr James Edward Brown, and Mrs Ruth Brown (Agent: Rostons)**

- 8.7.109. Mr David John Brown, Mr James Edward Brown, and Mrs Ruth Brown (Mr D.J. Brown, Mr J. E. Brown, and Mrs R. Brown) raised concerns/ objections in regard to CA/ TP, as summarised in paragraph 8.7.3 above, in RR [RR-073].
- 8.7.110. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot no. 3-03; whilst the permanent acquisition of subsurface is being sought in relation to plot nos. 2-03, 2-08, 2-09, 2-13, 2-14, 4-05, 4-06, 4-07, 4-09, 4-10, 4-12, 4-13, 4-15, 4-16, 4-17 and 4-18.
- 8.7.111. In addition, the above-mentioned documents indicated the permanent acquisition of rights are being sought in regard to Plot No. 2-02a.
- 8.7.112. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of these APs (Mr D.J. Brown, Mr J. E. Brown, and Mrs R. Brown) these new rights would apply to plot no. 2-02A for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose a restrictive covenant.
- 8.7.113. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of these APs (Mr D.J. Brown, Mr J. E. Brown, and Mrs R. Brown) the plot nos. listed are 2-02, 2-11, 2-12, 3-02, 4-01, 4-02, 4-03, 4-04 and 4-11. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:
- Temporary use as a construction working area and for access to facilitate construction.
  - Temporary use as a construction access.
  - Temporary use as a construction compound and working area.
  - Temporary use as a construction access and visibility splay.

**ExA's Response to the generic objections**

- 8.7.114. The Applicant, in its 'Response to RR' [REP1-042], sought to provide clarification on a number of the points raised and a summary of the main responses are set out below:

- Only a nominal 100m corridor had been denoted along the whole Proposed Developments length and this had been done to *"enables detailed design contractors a level of flexibility in final design routing to balance construction and environmental requirements with disruption to local land interests."*
- The permanent rights corridor width of 24.4m is in line with pipeline industry norms and is required to ensure sufficient access is available for future inspection and maintenance works on the pipeline should they be required.
- If any of the landowners' land is lost, compensation will be assessed on a case-by-case basis in accordance with the Compensation Code.

8.7.115. Having considered all of the above generic objections/ concerns, from the evidence, submitted into the Examination, including:

- the Applicant's Response to RRs [REP1-042];
- Applicant's Comments on Submissions Received at DL3 [REP4-263]; and
- Applicant's Comments on Submissions Received at DL4 [REP5-015],

The ExA is satisfied that sufficient time for negotiations was allowed by the Applicant and that, by the close of the Examination, no formal Planning Applications for development by the APs listed in this generic objection section of the Report had been drawn to the attention of the ExA. This includes in relation to residential development as raised in the RRs made by The Executors and John Calvin Peers.

8.7.116. Indeed, based on evidence/ documentation entered into the Examination, the ExA considers there to be significant uncertainty that the Proposed Development would interfere with any developments alluded to by these APs, as set out in their respective RRs listed above. As such, the ExA cannot agree, at this point in time, there would be any conflict with the Proposed Development route and the developments alluded to by these APs.

8.7.117. Having given these generic objections considerable thought, the ExA considers the CA/ TP powers sought, including new rights, in respect of plot nos. listed in this section are required for the Proposed Development. They are either required for the specific works identified on the Works Plans or are necessary to facilitate or are incidental to those works. Similarly, the ability to maintain and operate the development is an integral part of the Proposed Development. The ExA is therefore satisfied that the requirements of s122(2) of the PA2008 are met.

8.7.118. In terms of whether there is a compelling case in the public interest, the ExA considers the resultant loss in regard to the APs listed in this 'generic objections' section, would be limited and clearly outweighed by the following public benefits:

- of meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and

- the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.

8.7.119. Bearing all of the above in mind, the ExA finds that there is a compelling case in the public interest for including the CA/ TP powers sought in respect of the Proposed Development within the DCO and that the conditions set out in s122(3) of the PA2008 are satisfied.

## **Non-generic objections**

### **Essar Oil UK Ltd**

- 8.7.120. Essar Oil UK Ltd (Essar) raised concerns regarding CA/ TP in its RR [RR-002]. It advised that whilst it supported the HyNet proposals and DCO, it does not support the extent of land in its ownership included. Essar advised it was not willing to sell the freehold interest or any perpetual rights, as this could have a significant impact on its operation of the Stanlow Refinery. Irrespective of this Essar advised it intended to negotiate occupational agreements of any essential land voluntarily on appropriate terms.
- 8.7.121. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot nos. 3-04 and 3-12; whilst permanent acquisition of subsurface is being sought in relation to plot no. 3-11 and the permanent acquisition to rights are being sought in relation to 3-06, 3-07, 3-08, 3-09 and 3-10. These documents also set out the plot nos. over which new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). In terms of Essar these new rights would apply to plot nos. 3-04, 3-06, 3-07, 3-08, 3-09 and 3-10 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development (Work Nos. 9A and 10), together with the right to impose a restrictive covenant.
- 8.7.122. With regard to TP, no TP of land related to Essar is listed within the dDCO at Schedule 7 (Land of which TP may be taken), nor is any TP relevant to Essar Oils UK Ltd specified in the BoR [REP7-025] or in the Land Plans [CR3-003].

### **ExA's Response**

- 8.7.123. Essar made no further submissions beyond its RR during the Examination and took no part in any Hearings held as part of the Examination. It has not made any specific comment in regard to the proposed DCO, nor has it sought any PP. From the evidence, submitted into the Examination, including the Applicant's:
- Response to RRs [REP1-042];
  - Completed Statement of Common Ground (SoCG) with Essar [REP9-008];
  - Schedule of Negotiations with Land Interests [REP9-015],

the ExA is satisfied that sufficient time for negotiations was allowed by the Applicant.

- 8.7.124. Indeed, based on the evidence/ documentation entered into the Examination, the ExA considers the CA/ TP powers sought, including new rights, in respect of plot nos. listed are required for the Proposed Development. They are either required for the specific works identified on the Works Plans or are necessary to facilitate or are incidental to those works. Similarly, the ability to maintain and operate the development are also an integral part of the Proposed Development. The ExA is therefore satisfied that the requirements of s122(2) of the PA2008 are met.
- 8.7.125. In terms of whether there is a compelling case in the public interest, the ExA considers the resultant loss regarding this AP would be limited and clearly outweighed by the following public benefits:
- of meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
  - the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.
- 8.7.126. As such, the ExA finds there is a compelling case in the public interest for including the CA/ TP powers sought in respect of the Proposed Development within the DCO and that the conditions set out in s122(3) of the PA2008 are satisfied.

### **Encirc Limited**

- 8.7.127. Encirc Limited (Encirc), raised objection in regard to CA/ TP in its Deadline 3 submission [REP3-050], repeating those concerns in its response [CR1RR-005] to the Applicant's first Change Request (CR1). Its objections specific to CA/ TP are summarised below:
- The impact the Proposed Development would have on:
    - the operation of its facility, including access. It states uninterrupted access to the Encirc Site is essential to the operation of Encirc's business and therefore it is essential all rights of access which it currently enjoys are retained; and
    - plans for the future development of the site for a new distribution hub/ automated warehouse, especially in regard to the proposed access route. This was of particular concern regarding the potential to sterilise or prevent these works, as well as possibly causing co-ordination issues, and future development proposals, such as plans for rail development, which include new rail sidings and an intermodal area, which would see a new rail facility located approximately 300m along the existing rail lines on site.

(Note: Encirc in its DL7 submission [REP7-323] advised CWCC's Planning Committee resolved to approve its proposed new distribution hub/ automated warehouse development, subject to the prior completion of a s106 agreement, on the 17 August 2023, although no further update on the completion of a s106 agreement and issuing of a grant of Planning Permission was received prior to the close of the Examination.)

- New issues arising out of the CR1 being:
  - in respect of plots 1-06a-1-06c seeks to extend the land over which the Applicant is seeking the permanent acquisition of rights to ensure that rights are secured for access to link land plots 1-22 and 1-21 to the adopted highway at Ash Road, previously omitted from the submitted DCO. This addition removes the need to have a connection through the Encirc site between land plot 1-06 and 1-03 and this connection should be removed from the draft DCO.
  - PP and an associated private agreement will result in agreement to horizontal directional drilling below the rail lines at land plots 1-19, 1-20, 1-22 and 1-23.
  - The permanent rights over 1-21 will be downgraded to temporary and only in the event that horizontal directional drilling under Plot 1-22 is not feasible.
  - Rights for access to plots 1-06a, 1-06c, 1-06 and 1-22 should remain for monitoring and maintenance purposes only (subject to PP ensuring the continued operation of rail and the further development of rail). This route could be subject to change as a result of agreements reached between Encirc and the applicant.
  - As part of its automated warehouse development, the security gatehouse will be placed on land marked as plot 1-06a. As a HMRC [His Majesty's Revenue and Customs] bonded facility, access beyond the gatehouse is restricted and will need to be complied with at all times.
  - The acquisition of rights for access along plots 1-06a, 1-06b and 1-06c would require the use of Ash Road for access. Currently the movement of Heavy Goods Vehicles (HGVs) to Encirc's site are limited by planning permission ref. 18/04948/S73. There is a concern in relation to the differentiation of movement of HGV traffic related to the Proposed Development and those related to Encirc.
  - The availability of access to plots 1-03 and 1-06 from the north, as shown along plots 1-01 and 1-02, would be incompatible with the planning application proposals, as well Encirc's future development plans for a hydrogen powered furnace and intermodal-rail facility.
- The low level of engagement from the Applicant, considering the impact of the Proposed Development on its land and the sensitivity of the site.
- Impact of construction activity on current operation of its railhead, which it states operation must always be maintained to ensure it can meet its prescribed quotas.
- Safety aspects of the rail crossing and how its requirements will be taken into account.



- Depth of the Pipeline advising the Proposed Development must not sterilise the site and prevent future development.
- The site being a HMRC bonded site and as such has HMRC approved storage on its facility where it must comply with pre-agreed conditions. Concerns are raised regarding the Proposed Development access onto this facility, potentially causing a breach of HMRC conditions.
- Compliance with Control of Major Accident Hazards Regulations, as the site is regulated under these Regulations and strict site access must be operated in order to comply with its obligations in this regard.

8.7.128. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot nos. 1-20 and 1-22. No permanent acquisition of surface level land is being sought by the Applicant in regard to this APs Land.

8.7.129. In addition to the above, the BoR [REP7-025] and Land Plans [CR3-003] indicate the permanent acquisition of rights is being sought in relation to plot nos. 1-01, 1-01a, 1-02, 1-03, 1-06, 1-06a, 1-06b, 1-06c, 1-21, 1a-01, 1a02 and 1a-03. Additionally, these documents also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of Encirc these new rights would apply to plot no. 1-01, 1-01a, 1-02, 1-03, 1-06, 1-06a, 1-06b, 1-06c, 1-21, 1a-01, 1a02 and 1a-03 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and the imposition of covenants.

8.7.130. With regard to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Encirc) plot no. 1-06d is listed in Schedule 7 of the dDCO, confirming the Applicant is seeking TP of this plot for the "Temporary use as a construction access..."

### **ExA's Response**

8.7.131. Encirc continued to engage through-out the Examination maintaining its objections to CA/ TP, although it remained "...*hopeful that through... PP the parties will be able to find a way in which the Project [Proposed Development] can be implemented whilst protecting the operation of the Encirc Glass Manufacturing and Filling Plant, maintaining the required access to the Encirc Site and ensuring that Encirc's future development plans can be brought forward.*" However, by the close of the Examination its objection to the Proposed Development remained and agreement on PP and any related side agreement(s) had not been reached.

8.7.132. The Applicant refers to the submission of a completed SoCG with Encirc at DL9. Despite this, no such document was contained within the document pack submitted by the Applicant at DL9 and no such document

was submitted by the Applicant prior to the close of the Examination. Therefore, the last version available to the ExA for consideration was the dSoCG being prepared by the Applicant with Encirc [REP6-026], which was submitted at DL6. In terms of the dDCO that draft noted the following as "*Under Discussion*": "*The parties have agreed that PP for the benefit of Encirc shall be included within the DCO. The terms of these provisions are currently under discussion between the parties.*" (see Table 3-6). As a dSoCG the ExA has afforded it only limited weight.

- 8.7.133. Encirc Ltd, as part of its DL7 submissions [REP7-323], included its preferred PP [REP7-321], as well as a 'Table of Outstanding Points Between the Parties in Relation to PP for the Benefit of Encirc' [REP7-322]. This showed the areas of dispute in the draft PP as paragraphs 2 (178), 3(d) (179(d)), 7 (184), 13 (189) and 14 (\*) (the Numbers in brackets signify the PP paragraph numbers contained in the Applicant's dDCO, whereas the symbol (\*) signifies that paragraph would be new to the Applicant's submitted dDCO and would require all subsequent paragraphs to be re-numbered accordingly).
- 8.7.134. The Applicant set out its response to Encirc's DL7 submissions at Appendix 1 of its 'Final Positions Statement' [REP8-037]. Having considered all the submissions made by both parties in regard to PP, the ExA has come to the conclusion that the Applicant's 'Final Positions Statement' [REP8-037] provides clear, reasoned and persuasive arguments justifying why the PP, as set out in the dDCO, provide an adequate and appropriate level of protection in favour of Encirc Limited. The ExA is not persuaded that the additions to the PP, being promoted by Encirc at DL7, are either proportionate or reasonable additions.
- 8.7.135. Regardless of the ExA's view regarding PP in favour of Encirc Limited, it is noted that Encirc's DL7 submission [REP7-323] states "*The parties are continuing to negotiate in respect of PP for the benefit of Encirc.*" Indeed, the Applicant in its 'Update on the DCO Drafting' [REP7-294] indicates following DL7 "*The Applicant is keen to continue working with Encirc to agree the terms of the PP ...*"
- 8.7.136. Furthermore, the Applicant in its document entitled "Applicant's Response to the Rule 17 Request for Information" [REP9-012] states it has "*...sought to engage with Encirc Limited on the involved interactions of the development that impact Encirc Limited's site, namely the complex access arrangements and Encirc's future development plans.*" It also advised whilst it had "*...not been able to conclude a satisfactory agreement with Encirc...*" it was "*...committed to continue engaging with Encirc post end of Examination.*"
- 8.7.137. Having considered all representations made in respect of CA/ TP, by both the Encirc and the Applicant, as well as the details set out in the Land Plans [CR3-003] and BoR [REP7-025], the ExA is satisfied that the CA/ TP powers sought are required to facilitate and/ or are incidental to the Proposed Development. The ExA is therefore satisfied that the powers sought meet the conditions set out in s122(2) of the PA2008.

- 8.7.138. Irrespective of the above, the exercising of these rights has the potential to interfere with Encirc's operation and future development and aspirations. However, whilst the Applicant and Encirc had not reached agreement on PP or any side agreement at the close of the Examination, the two parties were clearly at an advanced point in negotiations in regard to these matters.
- 8.7.139. Whilst the ExA accepts there is potential impact on Encirc in terms of CA/ TP in the absence of any agreement on PP and any side agreement being reached, the need for development such as the Proposed Development, is clearly highlighted in the emerging dNPS's, which are important and relevant in the consideration of this Proposed Development. Furthermore, the ExA considers the impact on this AP would be clearly outweighed by the public benefits that would result from the Proposed Development, including:
- meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
  - the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.
- 8.7.140. As noted above, discussions between Encirc and the Applicant in regard to CA/ TP matters continued throughout the Examination and the ExA was kept updated on progress. However, at the close of the Examination, a number of matters remained outstanding, as detailed in this report above. Regardless of this, it was clear to the ExA that both Encirc and the Applicant were of the view that all the outstanding issues highlighted by them were capable of resolution by side agreement and the imposition of PP and that both parties would continue to work on finalising the required side agreement and PP during the decision period.
- 8.7.141. In the ExA's opinion, the parties' cases are sufficiently well set out that it is able to come to a view on these outstanding matters concerning CA/ TP, as highlighted by Encirc. As such, it considers these matters are capable of resolution by the completion of a side agreement and the imposition of PP and that these will adequately address the remaining matters in dispute.
- 8.7.142. Overall, the side agreement and PP, once concluded, should provide the necessary confidence to ensure use of the CA/ TP powers are appropriately applied to those required to carry out the development, whilst not resulting in harm to Encirc's operations, development proposals or future development aspirations.
- 8.7.143. The ExA is therefore satisfied that, subject to the completion of the necessary side agreement and final agreement on PP, the benefits outweigh the potential impact on Encirc's land interests and there is a compelling case in the public interest for including the CA/ TP powers

sought in respect of the Proposed Development within the DCO and that the conditions set out in s122(3) of the PA2008 are satisfied.

### **Peel NRE Limited**

8.7.144. Peel NRE Limited (Peel NRE) raised objection regarding CA/ TP in its RR [RR-078] and WR [REP1-074]. These submissions make it clear Peel NRE do not object in principle to the general concept of the Proposed Development, rather it objected to the CA of land and rights over its land. In these submissions Peel NRE set out the key areas where it objected, and, where relevant to CA/TP, these are summarised below:

- The proposed acquisition of land, interests and rights identified within the Land Plans, noting the Proposed Development seeks to acquire land (including interests and rights) permanently for the AGI, the subsurface (including rights) permanently for the Pipeline, the permanent rights to access, and the temporary use of land for construction. The impact of these CAs on existing consented development and the fact they will severely restrict the future development, not just during construction of the Pipeline but throughout the lifetime of its operation.
- Easement of the CO<sub>2</sub> pipeline, on the basis the proposed 24.4m corridor around the pipeline for the CA 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.

8.7.145. Helpfully, Peel NRE set out what it required to withdraw its objections to the Proposed Development. These are summarised below:

- 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 Proposed Development to enable the Protos expansion to come forward unhindered;
- No works pertinent to the Affected Land being carried out without Peel NRE's prior approval; and
- full access rights, during both the construction and operation phases are retained to the affected land for the benefit of Peel NRE.

8.7.146. Additionally Peel NRE was clear it had been working with the Applicant to resolve the objections, however, at that point in time agreement had not been reached and until satisfactory agreement has been reached that resolve Peel NRE's concerns, it advised it would maintain its objections.

8.7.147. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot nos. 1-09, 1-10 and 1-14; whilst the permanent acquisition of subsurface is being sought in relation to plot nos. 1-11, 1-12, 1-13, 1-15, 1-18, and 1-19.

- 8.7.148. In addition, the above-mentioned documents indicated the permanent acquisition of rights are being sought in regard to Plot No. 1-01, 1-01a, 1-02, 1-03, 1-04, 1-06, 1-06a, 1-06b, 1-06c, 1a-01, 1a-02, 1a-03 and 1a-04.
- 8.7.149. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of Peel NRE these new rights would apply to plot nos. 1-01, 1-01a, 1-02, 1-03, 1-04, 1-06, 1-06a, 1-06b, 1-06c, 1a-01, 1a-02, 1a-03 and 1a-04 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose a restrictive covenant.
- 8.7.150. With regard to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Peel NRE) these plot nos. are 1-05, 1-06d, 1-08, 1-16 and 1-17. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:
- Temporary use as a construction working area and for access.
  - Temporary use as a construction access.
  - Temporary use as a construction compound and working area.

### **ExA's Response**

- 8.7.151. It is clear to the ExA that throughout the Examination both the Applicant and Peel NRE have continued discussions on a number of matters, including access, easement corridor/ associated restrictive covenants and land agreements. However, in the absence of reaching agreement on PP, Peel NRE maintained its objections to the Proposed Development. In its DL8 submission [REP8-047] Peel NRE advised: *"...discussions with the Applicant regarding an alternative means of access and the parties are... close to reaching agreement via PP..."*
- 8.7.152. The ExA sought an update regarding outstanding PP in its Rule 17 letter dated 14 September 2023 [PD-028]. In the Applicant's response [REP9-012] it stated it had *"...sought to engage with Peel NRE on the highly complex interactions of the development that impact the Protos site, namely the construction of Ince AGI and associated pipeline, complex access arrangements, Peel NRE's multiple future developments and the many points that Peel NRE raised regarding the Applicant's Environmental Statement. The Applicant and Peel NRE have worked diligently together to reach a consensus, in which the Applicant modified its Environmental Statement and progressed confidential commercial discussions to overcome the issues raised. With a commercial framework agreement in place (agreed and circulated for signing on 20 September 2023 but the process was not completed) the Parties are pleased to confirm that they have reached agreement on agreed PP, and Peel NRE has confirmed to the Applicant that the action points outlined above will*

*satisfy them enough to remove their objections to the DCO Proposed Development once the agreement has been signed.”*

- 8.7.153. However, Peel NRE had not confirmed this position, nor removed its objection, prior to the close of the Examination. Irrespective of this, the ExA notes that the PP in favour of Peel NRE in the final dDCO versions ([REP9-011] the TCV (the APV) and [REP8-007] the EPBV) are identical to Peel NRE’s PP submitted at DL8 [REP8-047].
- 8.7.154. Having considered all representations made in respect of CA/ TP, by both the Peel NRE and the Applicant, as well as the details set out in the Land Plans [CR3-003] and BoR [REP7-025], the ExA is satisfied that the CA/ TP powers sought are required to facilitate and/ or are incidental to the Proposed Development. The ExA is therefore satisfied that the powers sought meet the conditions set out in s122(2) of the PA2008.
- 8.7.155. Irrespective of the above, the exercising of these rights has the potential to interfere with Peel NRE operations, including existing and future development and aspirations. However, whilst the Applicant and Peel NRE had not reached agreement on PP or any commercial or land agreement at the close of the Examination, the two parties were clearly at an advanced point in negotiations in regard to these matters.
- 8.7.156. Whilst the ExA accepts there is potential impact on Peel NRE in terms of CA/ TP in the absence of any agreement on PP and any commercial and or land agreement being reached, the need for development such as the Proposed Development, is clearly highlighted in the emerging dNPS’s, which are important and relevant in the consideration of this Proposed Development. Furthermore, the ExA considers the impact on this AP would be clearly outweighed by the public benefits that would result from the Proposed Development, including:
- meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
  - the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.
- 8.7.157. As noted above, discussions between Peel NRE and the Applicant in regard to CA/ TP matters continued throughout the Examination and the ExA was kept updated on progress. However, at the close of the Examination, a number of matters remained outstanding, as detailed in the Applicants competed SoCG with Peel NRE [REP7-262]. Regardless of this, it was clear to the ExA that both Peel NRE and the Applicant were of the view that all the outstanding issues highlighted by them were capable of resolution by commercial and or land agreement(s) and the imposition of PP and that both parties would continue to work on finalising the required agreement(s) and PP.

- 8.7.158. In the ExA's opinion, the parties' cases are sufficiently well set out that it is able to come to a view on these outstanding matters concerning CA/ TP, as highlighted by Peel NRE. As such, it considers these matters are capable of resolution by the completion of a commercial and or land agreement(s) and the imposition of PP and that these will adequately address the remaining matters in dispute.
- 8.7.159. Overall, the commercial and/ or land agreement(s) and PP, once concluded, should provide the necessary confidence to ensure use of the CA/ TP powers are appropriately applied to those required to carry out the development, whilst not resulting in harm to Peel NRE's operations, existing consented developments, future development proposals or future development aspirations.
- 8.7.160. The ExA is therefore satisfied that, subject to the completion of the necessary commercial and/ or land agreement(s) and the final agreement on PP being confirmed, the benefits outweigh the potential impact on Peel NRE's land interests and there is a compelling case in the public interest for including the CA/ TP powers sought in respect of the Proposed Development within the DCO and that the conditions set out in s122(3) of the PA2008 are satisfied.

#### **Travelodge Hotels Limited**

- 8.7.161. Travelodge Hotels Limited submitted comments regarding CA/ TP in its RR [RR-011]. These comments related to the temporary access road proposals over the access which it uses for its business operations. It advised it would be making representations on the likely interruptions to this access. However, no further submissions were received from Travelodge Hotels Limited during the Examination.
- 8.7.162. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003], the Applicant is not seeking the permanent acquisition of land or subsurface, nor the permanent acquisition of rights, in relation to Travelodge Hotels Limited. However, the above-mentioned documents indicate the Applicant is seeking the temporary use of rights in relation to Plot No. 10-06.
- 8.7.163. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos. over which new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). However, no new rights are listed in this Schedule in relation to the above-mentioned plot nos. Furthermore, no TP of land related to Travelodge Hotels Limited is listed within the dDCO at Schedule 7 (Land of which TP may be taken), nor in the BoR [REP7-025] or in the Land Plans [CR3-003].

#### **ExA's Response**

- 8.7.164. Travelodge Hotels Limited made no further submissions beyond its RR during the Examination. Although it took part in the Preliminary Meeting, it did not take part in any subsequent Hearings held as part of the Examination.

- 8.7.165. In relation to the RR the Applicant, in its response to RRs [REP1-042], advised:
- it was *"...not proposing to restrict access to the hotel through any point of the construction of the DCO Proposed Development."*
  - the RR appears to be referring to a secondary access point and *"Access to this location is temporary and anticipated to take place over a matter of days or weeks and/ or traffic volumes in this location are anticipated to be negligible."*
  - *"Measures to ensure safe and suitable access by appropriate vehicle types in these locations has been considered as part of the Outline Construction Traffic Management Plan"* [REP7-240].
- 8.7.166. In terms of Travelodge Hotels Limited interests regarding CA/ TP, the ExA is satisfied that sufficient time for negotiations was allowed by the Applicant.
- 8.7.167. Based on the evidence/ documentation submitted during the Examination, including the Applicants response mentioned above, the ExA considers the CA/ TP powers sought, including temporary rights, in respect of plot no. 19-06 are required for the Proposed Development. They are either required for the specific works identified on the Works Plans or are necessary to facilitate or are incidental to those works. The ExA is therefore satisfied that the requirements of s122(2) of the PA2008 are met.
- 8.7.168. In terms of whether there is a compelling case in the public interest, the ExA considers the resultant loss regarding this AP would be limited and clearly outweighed by the following public benefits:
- of meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
  - the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.
- 8.7.169. As such, the ExA finds there is a compelling case in the public interest for including the CA/ TP powers sought in respect of the Proposed Development within the DCO and that the conditions set out in s122(3) of the PA2008 are satisfied.

### **Brian Cook**

- 8.7.170. Brian Cook raised concerns regarding CA/ TP in RR [RR-005]. These concerns related to the 1.5 acres adjacent his property that he uses for training his dogs and growing fruit and other small plants. He suggests the pipeline be realigned to the other side of his boundary, so it runs through and adjoining farmer's field, feeling such realignment to be more economically viable. Mr Cook also indicated Rostons were appointed to



act on his behalf, however, the ExA notes no such submissions from Rostons on behalf of Mr Cook were received during the Examination.

- 8.7.171. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot no. 10-07. No permanent acquisition of surface level land is being sought, nor is the Applicant seeking any permanent acquisition of rights regarding this plot no.
- 8.7.172. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. As set out above, in terms of this AP (Brian Cook) no new rights are set out in Schedule 8.
- 8.7.173. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Brian Cook) no TP of land is proposed.

#### **ExA's Response**

- 8.7.174. Mr Cook made no further submissions beyond the RR mentioned above and no submissions from Rostons, on his behalf, were received during the Examination.
- 8.7.175. In relation to this RR the Applicant, in its response to RRs [REP1-042], advised it "*...will continue to engage with the landowner and compensation will be assessed on a case-by-case basis in accordance with the Compensation Code.*" In addition, the Applicant's Schedule of negotiations of land interests [REP9-015], which was continually updated through-out the Examination period, noted no agreement had been reached but there was ongoing discussion.
- 8.7.176. Additionally, as discussed in the Chapters 4 and 5 above 'Consideration of Alternatives' (Chapter 4.9) and 'Assessment of Alternatives' clearly sets out the justification for the Applicant's chosen pipeline routing and the ExA is not persuaded by the reasoning put forward in this RR for such realignment. Indeed, the ExA notes the RR did not include any evidence that adequately justified the request, nor was any submitted during the Examination as evidence.
- 8.7.177. In terms of Brian Cook's interests regarding CA/ TP, bearing the above factors in mind, the ExA is satisfied that sufficient time for negotiations was allowed by the Applicant.
- 8.7.178. Based on the evidence/ documentation submitted during the Examination, including the Applicants response mentioned above, the ExA considers the CA/ TP powers sought are required for the Proposed Development. They are either required for the specific works identified on

the Works Plans or are necessary to facilitate or are incidental to those works. The ExA is therefore satisfied that the requirements of s122(2) of the PA2008 are met.

8.7.179. In terms of whether there is a compelling case in the public interest, the ExA considers the resultant loss regarding this AP would be limited and clearly outweighed by the following public benefits:

- of meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
- the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.

8.7.180. As such, the ExA finds there is a compelling case in the public interest for including the CA/ TP powers sought in respect of the Proposed Development within the DCO and that the conditions set out in s122(3) of the PA2008 are satisfied.

**Emma Clare Craven-Smith-Milnes and Anthony David Wynne Griffith (Agent: Rostons)**

8.7.181. Emma Clare Craven-Smith-Milnes initially raised objection in regard to CA/ TP in RR [RR-071], with written representations being made by J. Bradburne Price and Co, on behalf of both Emma Clare Craven-Smith-Milnes and Anthony David Wynne Griffith, under Examination Library reference [REP1-079].

8.7.182. The objections regarding CA/ TP can be summarised as the lack of willing and meaningful engagement; and the impacts the Proposed Development, including any easement area(s) would have on a proposed solar farm development on that land, sterilising it from development. Additionally, concerns were raised regarding the loss of land used for grazing and the production of fodder, with it being argued the loss of such land would mean the cattle enterprise would be no longer viable. Finally, concerns related to the loss of land to mitigation land is raised, with the representation suggesting CA should not be granted for the acquisition of land to mitigate impact of the Proposed Development, but rather the Applicant should seek to acquire such land on the open market.

8.7.183. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot no. 3-18a, 5-01\*\*, and 5-07; whilst permanent acquisition of subsurface is being sought in relation to plot nos. 3-17\*, 3-18, 4-07\*, 4-08, 4-10\*, 4-13\*, 4-14, 4-19, 4-20, 5-02\*\*, and 5-09\*. (Note: In this paragraph '\*' signifies Anthony David Wynne Griffith is not listed in the BoR against those plot nos; whilst '\*\*' signifies Emma Clare Craven-Smith-Milnes is not listed against those plot nos. in the BoR).

- 8.7.184. In addition, the above-mentioned documents indicated the permanent acquisition of rights are being sought in regard to Plot No. 5-08.
- 8.7.185. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of these APs (Emma Clare Craven-Smith-Milnes and Anthony David Wynne Griffith) these new rights would apply to plot no. 5-08 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose a restrictive covenant.
- 8.7.186. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Emma Clare Craven-Smith-Milnes and Anthony David Wynne Griffith) the plot no. listed is 5-03. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which this plot is being sought is "*Temporary use as a construction access...*" It is noted that the BoR [REP7-025] does not list Emma Clare Craven-Smith-Milnes against this plot no.

### **ExA's Response**

- 8.7.187. During the Examination, the ExA sought evidence and clarification regarding the proposed solar farm development. Indeed, ExQ2 [PD-022] at Q2.6.3 sought evidence from Rostons of any planning permission for the solar scheme referred to, whilst ExQ2 [PD-022] at Q2.6.4 asked the Applicant and CWCC whether they are aware of any submission(s)/ application(s), planning or otherwise, formally submitted for the above-mentioned solar scheme.
- 8.7.188. Rostons responding to its question at DL5 [REP5-045] advised "*...a full planning application has not been submitted...*" for the solar development as of the date of the response (email dated 28 June 2023), but a pre-planning application submission (23/01234) and Environmental Impact Assessment Screening submission (22/04248/SCR) had been submitted to CWCC. Rostons confirmed both matters were ongoing.
- 8.7.189. The Applicant in its response to ExQ2 [REP5-026] confirmed, in response to Q2.6.4, it was not aware of a formal planning application being submitted to CWCC; whilst CWCC in its response to ExQ2 [REP5-030] replied in a similar vein to the Rostons response set out above, but also indicated it would keep the ExA updated in regard to any submissions made in relation to this solar farm development.
- 8.7.190. At DL8 CWCC provided a number of documents, including a copy of its pre-application advice letter related to its planning reference 23/01234/PREAPP [REP7-308]. This was the pre-application advice Rostons referred to above related to a '*Proposed 25.83 MW solar farm and Battery Storage*' at '*Land south of Thornton Le Moors, Cryers Lane, Chester West, CH2 4LH*'. Without prejudice to any future planning

applications, the ExA is of the opinion that this pre-application advice was not particularly positive or encouraging in the light of CWCC's concluding comments, which included:

- A need to be demonstrated that very special circumstances exist to outweigh the harm to the Green Belt by reason of inappropriateness and the other harm identified, including loss of openness and the purposes of including land within the Green Belt.
- A need to demonstrate that there are no previously developed sites before sites in the open countryside can be considered/ demonstrated through a borough-wide assessment.
- Development on high quality agricultural land would not being supported.
- The proposal not complying with the CWCC's landscape policies, which do not support very large solar farm development, in areas of high landscape sensitivity.

8.7.191. From the evidence, submitted into the Examination, including:

- The Applicant's Response to RRs [REP1-042];
- The Applicant's Responses to DL1 submissions [REP2-029]
- The Applicant's Response to ExQ2 [REP5-026];
- CWCC Response to ExQ2 [REP5-030];
- Rostons Response to ExQ2 [REP5-045];
- The Applicant's Comments on Response to ExQ2 [REP6-036];
- A copy of CWCC's Screening Opinion issued in regard to the screening application reference no. 22/04248/SCR [REP7-302];
- A copy of CWCC's Environmental Impact Assessment screening matrix related to screening application reference no. 22/04248/SCR [REP7-303] and [REP7-0307];
- A copy of CWCC's covering letter issued with it Screening Opinion related to screening application reference no. 22/04248/SCR [REP7-304];
- A copy of CWCC's letter issued providing pre-application related to its planning reference 23/01234/PREAPP [REP7-308].
- The Applicant's Schedule of Negotiations with Land Interests [REP9-015],

the ExA is satisfied that sufficient time for negotiations was allowed by the Applicant and that, by the close of the Examination, no formal lodging of a planning application for the proposed solar farm development, referred to by this AP, had been drawn to the ExA's attention.

8.7.192. Furthermore, in the absence of any evidence or documentation being entered into the Examination to the contrary, the ExA considers there is significant uncertainty related to the proposed solar farm development referred to by this AP, especially in the light of the pre-application advice issued by CWCC mentioned above.

8.7.193. Bearing the above in mind, the ExA cannot agree, at this point in time, there would be any conflict with the solar farm development referred to

by the AP as no planning permission appeared to exist at the close of the Examination.

- 8.7.194. The ExA consider the CA/ TP powers sought, including new rights, as referred to in this report above, are required for the Proposed Development. They are either required for the specific works identified on the Works Plans or are necessary to facilitate or are incidental to those works. Similarly, the ability to maintain and operate the development are also an integral part of the Proposed Development. The ExA is therefore satisfied that the requirements of s122(2) of the PA2008 are met.
- 8.7.195. In terms of whether there is a compelling case in the public interest, the ExA considers the resultant loss regarding this AP would be limited and clearly outweighed by the following public benefits:
- of meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
  - the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.
- 8.7.196. As such, the ExA finds there is a compelling case in the public interest for including the CA/ TP powers sought in respect of the Proposed Development within the DCO and that the conditions set out in s122(3) of the PA2008 are satisfied.

### **Sarah Harley**

- 8.7.197. Sarah Harley raised concerns regarding CA/ TP in RR [RR-074]. The RR stated *"I am an interested party as part of the pipeline will affect me as a landowner. My concerns are the impact the pipeline will have on my livelihood."*
- 8.7.198. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot no. 5-18; whilst permanent acquisition of subsurface is being sought in relation to plot nos. 5-13, 5-14, 5-16, 5-17 and 5-20.
- 8.7.199. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos. where the permanent acquisition of rights/ new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. and confirms no permanent/ new rights are being sought in regard to this AP (Sarah Harley).
- 8.7.200. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to

each plot TP is being sought. In terms of this AP (Sarah Harley) the plot no. listed is 5-19. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which this plot is being sought is "*Temporary use for access and peat storage*".

### **ExA's Response**

8.7.201. Sarah Harley made no further submissions beyond its RR during the Examination. However, the Applicant in its 'Response to RR' submission [REP1-042] stated it "*...recognises the party as an impacted landowner and appreciates their concerns about the impact to their livelihood.*" It advised it would "*...seeking to agree voluntary agreements with all affected landowners...*" but should CA be required any compensation "*...will be assessed on a case-by-case basis, in line with the Compensation Code.*"

8.7.202. From the evidence, submitted into the Examination, including the Applicant's:

- Response to RRs [REP1-042];
- Schedule of Negotiations with Land Interests [REP9-015],

the ExA is satisfied that sufficient time for negotiations was allowed by the Applicant.

8.7.203. Indeed, based on the evidence/ documentation entered into the Examination, the ExA considered the CA/ TP powers sought, in respect of plot nos. listed are required for the Proposed Development. They are either required for the specific works identified on the Works Plans or are necessary to facilitate or are incidental to those works. Similarly, the ability to maintain and operate the development are also an integral part of the Proposed Development. The ExA is therefore satisfied that the requirements of s122(2) of the PA2008 are met.

8.7.204. In terms of whether there is a compelling case in the public interest, the ExA considers the resultant loss regarding this AP would be limited and clearly outweighed by the following public benefits:

- of meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
- the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.

8.7.205. As such, the ExA finds there is a compelling case in the public interest for including the CA/ TP powers sought in respect of the Proposed Development within the DCO and that the conditions set out in s122(3) of the PA2008 are satisfied.

**Richard Benjamin Jones (R B & J Jones and Son)**  
**(Agent: Rostons)**

- 8.7.206. Richard Benjamin Jones (R B & J Jones and Son) raised concerns in regard to CA/ TP in its written representation [REP1-081], submitted at DL1. The following summarised the CA/ TP concerns raised:
- Loss of a significant area from the grazing platform, which is crucial to the dairy enterprise.
  - The need to accommodate cattle indoor indoors during the construction period, intensifying the need for additional forage and bedding.
  - Increased bio-security risks and the financial impact to the farming business resulting from the loss of the land, including:
    - additional land or slurry storage would be required; and
    - availability and need of additional feed from the herd having to be brought in.
  - The proximity of the construction access route to the residential property related to the farm, suggesting an alternative construction access route.
- 8.7.207. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot nos. 9-22, 10-01\*, 10-02, 10-04\*, 10-09, 10-11, 10-12\*, 10-13 and 10-16\*. No permanent acquisition of surface level land is being sought in relation to this AP. (Note: In this paragraph '\*' signifies R B and J Jones and Son is not listed in the BoR against these specific plot nos.).
- 8.7.208. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos. where the permanent acquisition of rights/ new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. and confirms no permanent/ new rights are being sought in regard to this AP (Richard Benjamin Jones (R B & J Jones and Son)).
- 8.7.209. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Richard Benjamin Jones (R B & J Jones and Son)) the plot nos. listed are 10-15\* and 10-17\* ('\*' in this paragraph signifies R B and J Jones and Son is not listed in the BoR against these specific plot nos.). As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which both plot nos. listed is being sought is given as "*Temporary use as a construction access...*"

### **ExA's Response**

- 8.7.210. Richard Benjamin Jones (R B & J Jones and Son) made no further submissions during the Examination beyond the Written Representation submitted at DL1 [REP1-081]. However, the Applicant in its 'Response to Written Representations' submission [REP2-041] advised:

- It will continue to engage with the landowner to mitigate the impacts of the pipeline route on their land, including any impact on their farm/ dairy business during the construction of the pipeline giving due regard to any biosecurity measures.
- It does not expect there to be a permanent loss of land as a result of the pipeline once construction has been completed.
- It will seek to work with the IP to ensure appropriate mitigation measures are in place to reduce the impact of construction when the location of the construction corridor has been defined.
- The AP is aware of the upcoming legislation changes in relation to the Nitrogen limits and slurry storage and will need to ensure that their system is fully compliant prior to the construction of the pipeline.
- The land loss will be temporary, and compensation will be assessed on a case-by-case basis in accordance with the Compensation Code.
- A construction access route is already proposed and included within the Order Limits along the western side of the Liverpool to Chester railway (Plot 9-25). It is recognised that the existing track is very narrow and is directly adjacent to a residential property. As a result, use of this access will be limited as appropriate, and a second access will be utilised for heavy construction traffic. The second access route will be via a new field access off Station Road (Plot 10-1) along the pipeline construction right of way and therefore through an area that will already be disturbed by pipeline construction.

8.7.211. From the evidence, submitted into the Examination, including the Applicant's:

- Response to written representations [REP2-041]; and
- Schedule of Negotiations with Land Interests [REP9-015],

the ExA is satisfied that sufficient time for negotiations was allowed by the Applicant.

8.7.212. Indeed, based on the evidence/ documentation entered into the Examination, the ExA considers the CA/ TP powers sought, in respect of plot nos. listed are required for the Proposed Development. They are either required for the specific works identified on the Works Plans or are necessary to facilitate or are incidental to those works. Similarly, the ability to maintain and operate the development are also an integral part of the Proposed Development. The ExA is therefore satisfied that the requirements of s122(2) of the PA2008 are met.

8.7.213. In terms of whether there is a compelling case in the public interest, the ExA considers the resultant loss regarding this AP would be limited and clearly outweighed by the following public benefits:

- of meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
- the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant



tangible public benefits associated from direct/ indirect investment and subsequent job creation.

- 8.7.214. As such, the ExA finds there is a compelling case in the public interest for including the CA/ TP powers sought in respect of the Proposed Development within the DCO and that the conditions set out in s122(3) of the PA2008 are satisfied.

**Messrs H W Oultram & Co, Miss C Oultram & Messrs S & A Oultram (Agent: Fisher German LLP; and Solicitor: Stephens Scown LLP)**

- 8.7.215. Messrs H W Oultram & Co, Miss C Oultram & Messrs S & A Oultram (The Oultrams) raised objections in regard to CA/ TP, in their RR [RR-030] and in their WR [REP1-082]. These are summarised below:

- The lack of clarity as to the exact line of the pipeline and the associated easement, including permanent rights of access to the pipeline; as well as Applicants responsibility regarding liability, indemnities, and insurance, including in relation to premiums.
- The uncertainty caused, including in regard to the rights that will be taken through the property, limiting the ability to plan and make long term decisions for that land/ property.
- The 24m easement being excessive, not been justified, and potentially sterilising large areas through the land/ property and, where relevant, preventing appropriate development and restricting other operations, including some agricultural operations.
- Heads of Terms and Option Agreements remaining in a format that is unacceptable especially in regard to:
  - the extent of land detailed being excessive and beyond what is reasonably required; and
  - the sterilisation of the land for the period of the option, being potentially up to 8 years.
- No proposals or specifications being available in relation to all aspects of accommodation works required, both during and post construction, including in relation to land drainage, fencing, retention of all utility services, crossing points to working width, timescale and specification for reinstatement and other day to day encumbrances.
- Lack of detail available as to the number, size and location of manholes, vents, marker posts and other such structures which may be constructed along the line of the pipe, with no provision for agreement with the affected landowner/ occupier, as to the location of these structures, being in place.
- Potential impact upon potential capital and rental values.
- Potential blight caused by ongoing uncertainty as to the exact location of the pipeline and the associated easement.
- Serious consequences for the viability of the farm, including:
  - The area required for the construction work will remove key areas of the farm for grazing and calving paddocks, as well as creating serious logistical problems of moving a dairy herd (over 200 cows) around the farm on a daily basis.

- The removal of up to 16 acres of land opposite the farm for a compound site during the construction phase will have a serious detrimental impact to the farm's viability, as the block of land affected is fundamental to the dairy herd's grazing system and for the application of slurry.
- The land is incredibly valuable to the operation of the herd and the production of silage and that the loss of this land (even for a temporary period) would require either or both a reduction in herd numbers and/ or a fundamental change in farming practices requiring the acquisition of additional equipment. To lose that area as a valuable source of silage and grazing land and the proposed access to the compound will severely disrupt, if not completely prevent, access to the remaining grazing land for the milking herd, making the dairy business unviable from that point of initial disruption.
- the long-term future of the farm as a dairy holding would be brought into question as it estimates the loss of the land would result in up to a third of the dairy herd having to be disposed of through the lack of available grazing and reduced area for spreading slurry, resulting in a reduced turnover and staff redundancies.
- The potential loss of farm subsidies arising from the loss of land, as from 2025 it is currently the Welsh Government's intention to require all farms in Wales applying for subsidies to have 10% of land hosting woodland, which the holding would currently meet. However, the loss of land might result in the farm becoming ineligible for subsidies depending on how much woodland is removed.
- Additionally, this AP advises *"If the business is to remain viable a change to a zero grazing system will be required, requiring significant investment in new buildings, machinery and equipment and additional land to enable the forage to be brought into the dairy herd."* It advises it *"...would be looking to Applicant to provide this investment."*

8.7.216. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot nos. 19-04a, 19-04b and 19-04d; whilst permanent acquisition of subsurface is being sought in relation to plot nos. 18-02, 18-03, 18-04, 18-05, 18-06, 18-07, 18-10, 18-11, 18-14, 18-18, 18-19, 18-20, 18-20a, 18-21, 18-22, 18-23, 18-24, 18-25, 19-03 and 19-04.

8.7.217. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos. where the permanent acquisition of rights/ new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. and confirms no permanent/ new rights are being sought in regard to this AP (The Oultrams).

8.7.218. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to

each plot TP is being sought. In terms of this AP (The Oultrams) the plot nos. listed are 18-13, 18-16 and 19-04c. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:

- Temporary use as a construction compound, working area and access.
- Temporary use as a construction access and visibility splay.
- Temporary use as a working area.

### **ExA's Response**

8.7.219. In addition to the submission of an RR [RR-030] and a WR [REP1-082], this AP made a number of other submissions, including [CR1RR-010], [REP4-292], [REP6-051], [REP6-052] and [REP7-325]. Mr S Oultram and Miss C Oultram attended part of the ASI2, as relevant to their land interests, on Tuesday 8 August 2023, whilst representatives on their behalf also took part in both CAHs (CAH1 and CAH2) on their behalf.

8.7.220. The Applicant, in its 'Response to RR' [REP1-042], sought to provide clarification on a number of the points raised and a summary of the main responses are set out below:

- Only a nominal 100m corridor had been denoted along the whole Proposed Developments length and this had been done to "*enables detailed design contractors a level of flexibility in final design routing to balance construction and environmental requirements with disruption to local land interests.*"
- The permanent rights corridor width of 24.4m is in line with pipeline industry norms and is required to ensure sufficient access is available for future inspection and maintenance works on the pipeline should they be required.
- It is aware of the potential impacts the Proposed Development may have on the respondent's dairy farm business and had recently carried out a Farm Business Impact Assessment to further understand those impacts and how they would affect the viability of the farming business.
- The Applicant would seek to continue to engage with the landowner:
  - in regard to their matters of concern and would seek to negotiate with them. Furthermore, it advised it would seek to engage with this AP in the context of ongoing negotiations regarding the Heads of Terms and option agreement; and
  - to mitigate any loss of land for their farm business during the construction of the Proposed Development and will continue to discuss with them methods that reduce and mitigate the scheme impacting their business.
- If any of the landowners' land is lost, compensation will be assessed on a case-by-case basis in accordance with the Compensation Code.

8.7.221. In response to CR1 and CR2, both made in RR [CR1RR-010] this AP noted additional CA of land to the NW of the existing slurry tank at Newbridge Farm (18-20a) was incorporated into the Proposed Development. They noted two possibilities arose out of this change

request, one of which involved the removal of the slurry tank, the demolition of which would have impacts on the APs farm. However, the AP raised concern that the Applicant had not assessed the economic impacts resulting from that demolition on the farm. The AP pointed out *"A dairy farm cannot operate without a slurry tank; it is a statutory requirement. The developer concedes that there is no suitable alternative location for the tank and so the business will need to close."*

- 8.7.222. In terms of CR2, this AP noted the change included an increase in the permanent land take by the Alltami Brook (19-04d) and pointed out such a land take would sever the holding, representing additional lost acres of land making the business unsustainable. The AP advised *"...there is a level below which a dairy unit cannot operate and will cause stock reductions and redundancies."*
- 8.7.223. In response to the above representations the Applicant advised *"...the extra land (plot no. 18-20a) is for extra space to site the pipeline between the reference slurry tank and the ancient woodland located to the north of the IP's farm. Given the proximity to the ancient woodland, an additional option of re-siting the slurry tank has been provided in the event that the relevant statutory body deems the pipeline too close to the root protection zone."* In regard to the latter point it is clear from the submissions made during the Examination that the Applicant sought to resolve concerns raised in regard to the Ancient Woodland with FCC agreeing to a reduction of the buffer zone width to 13m contrary to the advice of The Woodland Trust. This matter is discussed in Chapter 5 of this report.
- 8.7.224. In terms this APs comment regarding CR2, the Applicant responded in its 'Change Request 1 Consultation Report' [REP5-024] noting plot no. 19-04d represents an area for construction optionality (aligned with the principles of the optionality in the 100m corridor) and that it would only seek *"...to acquire surface rights (as a design option), for a small section of the width of this plot. The exact location and size of this area are to be confirmed during detailed design. However, the indicative span of approximately 14m and a width of approximately 4m, but the dimensions may vary dependent on the final crossing location selected at detailed design."* Again the Applicant highlighted *"...if any land is severed then this will be dealt with under the compensation code."*
- 8.7.225. At DL4, representations on behalf of Mr. S and Miss C Oultram were submitted [REP4-292]. This submission repeating previous concerns regarding the loss of the slurry store, highlighting the legislative provision that controls on-farm storage of organic manure and *"...dictate what must be provided, including the requirement to be able to store 5 months' worth of slurry."* It stated a dairy farm cannot operate without a slurry store.
- 8.7.226. This representation also questioned the need for the TP of land for a construction compound, whilst reiterating the effects of any land take on the viability of the farm. It also argues the use of the word 'temporary' was misleading. In addition to the above the representation expanded on

the IP's concerns relating to the segregation of land, made in [CR1RR-010] mentioned above and re-emphasised concerns related to the loss of grazing and spreading land.

8.7.227. In its response to DL4 submissions [REP5-015] the Applicant provided an update in regard to the concerns of this AP arising from the potential loss of the slurry store. It advised it was in discussions with FCC concerning the reduction in the width of the buffer zone related to the adjoining ancient woodland, allowing the slurry tank to remain in situ. The Applicant advised FCC's forestry officer had confirmed they have no objections to the proposals, given the conservative consideration of the root protection area of the ancient woodland and in the context of other proposed mitigation to safeguard ancient woodland, as required within the Outline Construction Environmental Management Plan [REP4-237] secured by Requirement 5 of the dDCO [REP4-008].

8.7.228. With regard to the TP related to the temporary construction compound, the Applicant confirmed its intention to remove the compound as part of CR3. In regard to the matters of segregation and loss of grazing and spreading land, the Applicant advised it had given consideration to these points within its 'Ewloe routing and mitigation position paper' [REP6-037] submitted at DL6. This document concluded:

- *"The Applicant has engaged continually with the landowner at all points prior to and after the DCO submission. The Applicant is aware of the impact of the CO<sub>2</sub> Pipeline on the landowner and remains committed to ensuring that the impact of the scheme on the landowner's farming business is minimised as far as practicable.*
- *The result of some of this ongoing engagement has resulted in changes to the DCO application, including the removal of the impact of a construction compound as part of CR3.*
- *The Applicant is also actively engaged with FCC in agreeing the root protection area measures to agree the principle of routing of the pipeline around the landowner's slurry tank.*
- *The remaining permanent impacts include the embedded pipe bridge option over Alltami Brook (which is not the Applicant's preference) and the requirement for suitable mitigation land needed for the development and the Applicant is engaged with the landowner to minimise and compensate against these impacts.*
- *The Applicant is confident that construction impacts will be temporary, minimised by good working practices and will be less than the worst case assessed. The Applicant submits that overall, the impacts have been mitigated as far as practicable and the remaining impacts are unavoidable. Given the benefits of and considerable policy support for the CO<sub>2</sub> Pipeline, the Applicant considers that any adverse impacts on the farming business are considerably outweighed by the considerations in favour of consent being granted with the inclusion of compulsory powers."*

8.7.229. In response to CR3, representations on behalf of Mr. S and Miss C Oultram noted the reduction in the TP of land, including the removal of plot nos. 18-08, 18-09 18-12 and partial removal of plot no. 18-13.

However, they maintained their concerns due to part of the land retained within the Order Limit at plot nos. 18-13 and 18-17 and 18-16 blocking access to the remainder of the farm, noting plot nos. 18-16 and 18-17 were included within the Order Limit to provide access.

- 8.7.230. They consider that together the TP of plot nos. 18-16 and 18-17 would cut off the cow track from the main road. They submit the loss of access to the cow track will prevent them using the land no longer required for the Proposed Development, as they would not be able to use the cow track to get that stock to the highway. As such they argue they would not be able to graze their stock on those plots. In support of their argument, the AP highlights the Applicant's SoR submitted at CR3 [CR3-011], where it indicated paragraph 6.4.8 states "*...the CR3 SoR notes that this type of land cannot be shared*".
- 8.7.231. As a result of this the AP considers moving the herd is going to be far harder and will require more staff to maintain safety. It also questions the removal of the established hedge stating this will have a lasting effect beyond the temporary period of occupation and questions what impact these works will have on the drainage ditch that will need to be crossed or what works will need to be done to make the cow track suitable for heavy traffic, as it does not consider the Applicant to have been clear on either matter.
- 8.7.232. The Applicant in its response to submissions received at DL6 [REP7-290], addresses all the points raised by this AP in that submission. It acknowledged the comments made by this AP at DL6 and stated it "*understands the importance of the cow track.*" The Applicant also advised it would "*ensure access can be maintained over the cow track through accommodation works once the detailed design stage has been reached.*"
- 8.7.233. The APs concerns regarding access to the cow track were also discussed during CAH2 (Part 2) [EV-035] where it was clear to the ExA that there was an impasse between the two parties. Mr Baker on behalf of this AP explained the operational need for his clients continued use of this access. However, he also indicated they were seeking clear guarantees that their access will not be interrupted whatsoever for the movement of their cattle and vehicles 24/7, and they were not prepared to look at anything further until such a guarantee was provided ([EV-035] timed at 5:42).
- 8.7.234. When asked about how this impasse may be resolve Mr Tilney of Stephens Scown LLP, on behalf of the AP, stated he had no specific instructions on the matter from his client, however, it was suggested an update on the matter could be provided to the ExA at DL7.
- 8.7.235. The Applicant in response explained that the access will be used for getting construction vehicles in and out, and confirmed it was willing to coordinate with the landowner and pause movements twice a day to allow cattle to be moved. They also stated some level of control is required for safety of both parties, so providing 24/7, unimpeded,

unmanaged access for cattle movements is not possible, however, it also confirmed verbally that it is not proposing to prevent access by single vehicles at other times.

- 8.7.236. Additionally, the Applicant explained that although temporary possession is being sought over the plots, it had sought to work with the landowners, and is not seeking to exclude their access at that point and this was included in its 'Ewloe Routing and Mitigation Position Paper' [REP6-037], and this has been proposed to the landowners.
- 8.7.237. At DL7 a submission on behalf of Mr. S Oultram and Miss C Oultram was entered into the Examination by Stephens Scown LLP [REP7-325]. This submission repeated the arguments already put before the Examination in relation to plot no. 18-17 and the exclusive access required over that land. The letter also comments on the Applicant's response made during CAH2 that it was not saying that it would prevent other access (apart from the regular mass stock movements) and the only possible alternative would be a PP. However, the letter states PP have not been offered to this point, nor any drafting seen.
- 8.7.238. Also contained within the above-mentioned letter, under the heading 'Assessed Impact' it states "*The Oultrams have engaged an agricultural consultant to advise on the protentional impact.*" The letter then sets out the notes of a Mr. Harvey of Harvey Hughes Ltd, which covers a description of the farm operation and how the land on the farm holding is utilised. It also covers a number of topics, as set out below, commenting on each in turn. The topic areas are:
- Compound area.
  - Silage ground.
  - Silage storage.
  - Silage movement.
  - Slurry spreading.
  - Building improvements.
  - Reduced stock.
- 8.7.239. This note makes brief final points related to:
- financial impacts arising from the above points needing to be fully calculated, once the extent and timings of the Proposed Development become fully understood; and
  - the using of the access track for dual purpose, being access for both cows and contractors, expressing the view such a dual use will not work and at worst could cause a situation that puts both human and animal life at risk.
- 8.7.240. In reviewing the letter of Stephens Scown LLP [REP7-325], submitted on behalf of The Oultrams at DL7, as well as the notes of Mr. Harvey contained therein, the ExA found no record or explanation of Mr. Harvey's qualifications or experience. Indeed, the ExA noted other than the mention of "*The Oultrams...*" engaging "*...an agricultural consultant to advise on the protentional impact*", there is no record of when the consultant was engaged, nor of the specific terms of the

instructions/ engagement. As such, in the absence of such information, especially professional qualifications and experience, the ExA afford the notes of Mr. Harvey limited weight.

- 8.7.241. At DL8 in the 'Applicant's comments on submissions received at DL7' [REP8-035], it set out its response to The Oultrams DL7 submission [REP7-325]. The Applicant advised:

*"It is, as it has repeatedly submitted and as was confirmed in CAH2, willing and able to accommodate shared access into the field at this point. The plot is shown as green and not brown because this is not an existing route which the Applicant wishes to use but one which needs physical works to create it.*

*As has been explained, access by vehicles for 'normal' farm works can be accommodated more or less on demand (subject to normal traffic movements, e.g. waiting while a vehicle enters or exits). It is the movement of the cattle herd that needs to be agreed so that the Applicant can organise a pause in its use of the access.*

*The Applicant has considered the practicalities of that access in detail, including whether the access needs to be made wider to provide space for both uses (which can be accommodated within the order limits and which can be easily constructed over the existing drainage in situ). An example of this is that the Applicant has already noted that new gates would be of assistance in sharing access at this location.*

*As was expressed in CAH2 the Applicant is happy to document this sharing of access but had been asked not to send any further documents to the landowner, which made agreeing an alternative form of wording for this outside of a land agreement, such as a protective provision, impossible. It is unreasonable for the landowner to criticise the Applicant for not documenting such points to their satisfaction when they have refused to engage on the drafting of such documents. Following the hearing the Applicant understands the position on this may have changed and matters such as the precise arrangements for this access can be appropriately agreed within the option terms if the landowner will now engage with those. A revised bespoke Head of Terms was issued to the landowner's agent on 22 August 2023 and the Applicant is awaiting a response from the landowner."*

- 8.7.242. In the same document, in response to the written notes of Mr Harvey of Harvey Hughes Ltd, which is embedded in the letter of Stephens Scown LLP, the Applicant responds:

*"The Applicant notes the landowner's concerns in relation to the grazing platform used by the milking herd at Newbridge Farm.*

*The Applicant remains committed to ensuring the viability of the dairy business operated at Newbridge Farm. Following ongoing discussions with the landowner, the Applicant has sought to understand and reduce impacts on the farm business and negotiate with the landowner. The previously proposed construction compound has now been removed from the DCO Order Limits as part of Change Request No.3, which has meant*



*that approximately 20 acres will remain within the control of the farm during construction.*

*The Applicant will continue to work with the landowner to ensure the impacts of construction and loss of any land are mitigated as far as reasonably practicable. The Applicant will work to agree accommodation works, including any requirement for fencing, additional water troughs, gates, passing points to ensure that the cattle are still able to graze the land severed by the temporary works. Having taken advice from a specialist rural surveyor with extensive farming experience, the Applicant appreciates that the farming business is not stop/start but considers, based on that advice, that solutions can be put in place to use land for the construction, operation and maintenance of the DCO Proposed Development whilst ensuring the viability of the herd. For example, the grazing platform may need to be altered during the construction period and the Applicant will continue to consider this as the detailed design develops (such as through the implementation of a 'zero grazing' system). The Applicant does not believe that the temporary loss of grazing land will extinguish the business. The Applicant appreciates that the landowner will require access down the track morning and evening when the cattle are grazing and this will be provided. The Applicant is happy to commit to providing extra staff as required during the early stages of construction to ensure cattle access the land safely, the cattle have walked the same track for generations and we do not agree that the noise, smell and general activity will prevent the cattle from walking down the track. The cattle cross a very busy main road to access the land daily at present and therefore are used to noise, smells and vehicles.*

*The Applicant does not believe that the land will not be accessible for grazing and the system will be able to operate the same as existing. The existing silage clamps provide storage for the cattle at present including maize. There would therefore be no requirement for new silage clamps or improvements to the existing buildings.*

*Given the land is capable of being grazed the existing grazing platform will remain the same, as the DCO Proposed Development will be fenced off during construction (32m corridor). The applicant has committed to providing reasonable crossing points to allow access to any land temporality severed by the works.*

*The Applicant remains committed to working with the landowner to ensure the viability of their business, we do not agree that the dual use of the land will put both human and animal lives at risk, with careful management and planning.*

*Furthermore, the Applicant accept that the works will have a temporary impact on the farming business and the Applicant will work closely with the landowner to try and mitigate these losses (sic), where this is not possible. The Applicant will compensate for proven losses in line with the compensation code.*

- 8.7.243. The Applicant's 'Schedule of negotiations with land interests' [REP9-015], submitted at DL9 clearly sets out the details of negotiations with H W

Oultram and Co, Miss C Oultram, and Mr S W Oultram in terms of the plots in which they hold land interests. It is clear from this document that negotiations commenced in May 2022 and continued until the close of the Examination, albeit there was a period The Oultrams requested further updates on heads of terms be put on hold. It also shows a flurry of activity following CAH2 running from the 14 August 2023 until 18 September 2023.

- 8.7.244. Despite this activity, by the close of the Examination no agreement had been reached. However, the Applicant's 'Schedule of negotiations with land interests' [REP9-015] concludes against the entries related to 'Obj Nos': 28 - Miss C Oultram; 70 - H W Oultram and Co; and 123 - Mr S W Oultram: "*The Applicant remains committed to engaging and negotiating with the landowner and their agent.*"
- 8.7.245. From the evidence entered into the Examination, including the oral evidence during the CAH (CAH1 and CAH2), the written submission made on behalf of The Oultrams, and the Applicant's responses and other documentation entered into the Examination, the ExA is not persuaded by the arguments put forward by this AP in regard to CA/ TP. Indeed, it appears to the ExA that the Applicant has sought to address the objections raised by this AP and accommodate their requirements as far as practicable, with a view to both parties being able to co-exist during all stages, including the construction and operational phases of the Proposed Development.
- 8.7.246. In reaching this position, the ExA was especially persuaded by the Applicant's oral evidence provided at the CAH2 and by its submission at DL8 'Applicant's comments on submissions receive at DL7' [REP8-035]. As such, from the evidence entered into the Examination, as outlined above, the ExA is satisfied that sufficient time for negotiations was allowed by the Applicant.
- 8.7.247. Furthermore based on the evidence/ documentation entered into the Examination, including the oral evidence provided during the CAHs (CAH1 and CAH2), the ExA considers the CA/ TP powers sought, in respect of plot nos. listed are required for the Proposed Development. They are either required for the specific works identified on the Works Plans or are necessary to facilitate or are incidental to those works. Similarly, the ability to maintain and operate the development are also an integral part of the Proposed Development. The ExA is therefore satisfied that the requirements of s122(2) of the PA2008 are met.
- 8.7.248. In terms of whether there is a compelling case in the public interest, the ExA considers the resultant loss regarding this AP would be limited and clearly outweighed by the following public benefits:
- meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and

- the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.

8.7.249. As such, the ExA finds there is a compelling case in the public interest for including the CA/ TP powers sought in respect of the Proposed Development within the DCO and that the conditions set out in s122(3) of the PA2008 are satisfied.

### **Gillian Stevenson**

8.7.250. Gillian Stevenson raised concerns regarding CA/ TP in RR [RR-037]. These concerns related to limited engagement and the potential for the Proposed Development to sterilise the land for future development.

8.7.251. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot nos. 12-05 and 12-07. No permanent acquisition of surface level land is being sought.

8.7.252. In addition, the above-mentioned documents indicated the permanent acquisition of rights are being sought in regard to Plot No. 12-06.

8.7.253. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of this AP (Gillian Stevenson) these new rights would apply to plot no. 12-06 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose a restrictive covenant.

8.7.254. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this APs (Gillian Stevenson) the BoR and Land Plans confirm no TP is being sought.

### **ExA's Response**

8.7.255. Gillian Stevenson made no further submissions beyond this RR during the Examination. However, the Applicant's Schedule of Negotiations with Land Interests [REP9-015] clearly sets out negotiations and progress made from May 2022 up until the close of the Examination on 20 September 2023, where it confirmed no agreement had been reached but it *"...remains open and committed to reaching a voluntary agreement with the landowner."*

8.7.256. From the evidence, submitted into the Examination, including the Applicant's:

- Response to RRs [REP1-042];

- Schedule of Negotiations with Land Interests [REP9-015],

the ExA is satisfied that sufficient time for negotiations was allowed by the Applicant.

- 8.7.257. Indeed, based on the evidence/ documentation entered into the Examination, the ExA considers the CA/ TP powers sought, in respect of plot nos. listed are required for the Proposed Development. They are either required for the specific works identified on the Works Plans or are necessary to facilitate or are incidental to those works. Similarly, the ability to maintain and operate the development are also an integral part of the Proposed Development. The ExA is therefore satisfied that the requirements of s122(2) of the PA2008 are met.
- 8.7.258. In terms of whether there is a compelling case in the public interest, the ExA considers the resultant loss regarding this AP would be limited and clearly outweighed by the following public benefits:
- of meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
  - the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.
- 8.7.259. As such, the ExA finds there is a compelling case in the public interest for including the CA/ TP powers sought in respect of the Proposed Development within the DCO and that the conditions set out in s122(3) of the PA2008 are satisfied.

### **Philip Warrington and Vera Elaine Warrington**

- 8.7.260. Philip and Vera Elaine Warrington raised identical concerns in regard to CA/ TP in their RR [RR-068] (Philip Warrington) and [RR-082] (Vera Elaine Warrington). These concerns related to the impact of the Proposed Development on the ability to market & sell their property, farmhouse, outbuildings & farmyard, including in relation any future development.
- 8.7.261. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot nos. 12-02, 12-07, 12-08 and 12-10. No permanent acquisition of surface level land is being sought.
- 8.7.262. In addition, the above-mentioned documents indicated the permanent acquisition of rights are being sought in regard to Plot No. 12-06.
- 8.7.263. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of this AP (Philip and Vera Elaine Warrington) these

new rights would apply to plot no 12-06 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose a restrictive covenant.

- 8.7.264. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of these APs (Philip and Vera Elaine Warrington) the BoR and Land Plans confirm no TP is being sought.

### **ExA's Response**

- 8.7.265. Neither Philip nor Vera Elaine Warrington made further submissions beyond their RR during the Examination. However, the Applicant in its 'Response to RRs' [REP1-042] advised it would "...continue to proactively liaise with the landowner to assess the impact the development will have on the stated concerns." The Applicant's Schedule of Negotiations with Land Interests [REP9-015] clearly sets out negotiations and progress made from May 2022 up until the close of the Examination on 20 September 2023, where it confirmed no agreement had been reached but it "...remained open and committed to reaching a voluntary agreement with the landowner."

- 8.7.266. From the evidence, submitted into the Examination, including the Applicant's:

- Response to RRs [REP1-042];
- Schedule of Negotiations with Land Interests [REP9-015],

the ExA is satisfied that sufficient time for negotiations was allowed by the Applicant.

- 8.7.267. Indeed, based on the evidence/ documentation entered into the Examination, the ExA considers the CA/ TP powers sought, including new rights, in respect of plot nos. listed are required for the Proposed Development. They are either required for the specific works identified on the Works Plans or are necessary to facilitate or are incidental to those works. Similarly, the ability to maintain and operate the development are also an integral part of the Proposed Development. the ExA is therefore satisfied that the requirements of s122(2) of the PA2008 are met.

- 8.7.268. In terms of whether there is a compelling case in the public interest, the ExA considers the resultant loss regarding this AP would be limited and clearly outweighed by the following public benefits:

- of meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
- the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant

tangible public benefits associated from direct/ indirect investment and subsequent job creation.

- 8.7.269. As such, the ExA finds there is a compelling case in the public interest for including the CA/ TP powers sought in respect of the Proposed Development within the DCO and that the conditions set out in s122(3) of the PA2008 are satisfied.

### **Carl Woods**

- 8.7.270. Carl Woods raised concerns regarding CA/ TP in RR [RR-009]. These concerns related to the proposed temporary access splitting the 1-acre field at Plot 7-02 into three sections, as a result of putting the temporary access through the centre of it. The RR considered the existing field access to be perfectly good, being located the north of the adjoining properties, as it provided "...an existing farm track straight into the field behind." As such the RR argues the field affected would not be required for access.
- 8.7.271. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] no permanent acquisition of land or subsurface is being sought in relation to this AP. Furthermore, no permanent/ new rights are being sought in regard to this AP (Carl Woods).
- 8.7.272. With regards to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Carl Woods) TP is sought in relation to plot nos. 7-02 and 7-02a, and as set out by the Applicant in Schedule 7 of the dDCO, the purpose for which TP is sought in relation to these plot nos. is given as "*Temporary use as a construction access...*"

### **ExA's Response**

- 8.7.273. Carl Woods made no further submissions beyond the RR during the Examination. However, the Applicant in its 'Response to RRs' [REP1-042] advised the "*...access track in question is required for temporary construction access only, the field shall be restored after the completion of works in that section of pipeline.*" During CAH1 the ExA asked the Applicant to explain why the temporary access related to Plot No. 7-02 is centred in the middle of a field, as opposed to being located along the northern or southern boundary of that field and how such a TP would be legitimate, proportionate, and necessary. In response the Applicant explained:

*"The existing track to the north is too small for the volumes of construction traffic which will go down it, particularly with regard to the veteran trees along 7-02b. In terms of where it is located, within the field to the south there are domestic buildings on either side, so wherever the access track is located would affect one landowner or the other. It is*

*quite a long access, and will be a direct road used for a special piece of tunnelling works, so passing places will be required."*

8.7.274. Irrespective of the above the Applicant agreed to review this temporary access track and whether it could be narrowed as an action point arising from the CAH. Following that review the Applicant provided a full technical response in its document 'Responses to Action Points from Hearings held week commencing 5 June 2023' [REP4-265]. It advised a reduced corridor was provided for in updated Land Plans [CR2-004] (Current version [CR3-003]) and Work Plans [CR2-005] (Current version [REP7-007]) and these would form part of CR3.

8.7.275. In addition to the above the Applicant's Schedule of Negotiations with Land Interests [REP9-015] clearly sets out negotiations and progress made from May 2022 up until the close of the Examination on 20 September 2023, where it confirmed no agreement had been reached but it "*...remained open and committed to reaching a voluntary agreement with the landowner.*"

8.7.276. From the evidence, submitted into the Examination, including the Applicant's:

- Response to RRs [REP1-042];
- 'Responses to Action Points from Hearings held week commencing 5 June 2023' [REP4-265]; and
- Schedule of Negotiations with Land Interests [REP9-015],

the ExA is satisfied that sufficient time for negotiations was allowed by the Applicant.

8.7.277. Indeed, based on the evidence/ documentation entered into the Examination, the ExA considers the CA/ TP powers sought, in respect of plot nos. listed, are required for the Proposed Development. They are either required for the specific works identified on the Works Plans or are necessary to facilitate or are incidental to those works. The ExA is therefore satisfied that the requirements of s122(2) of the PA2008 are met.

8.7.278. In terms of whether there is a compelling case in the public interest, the ExA considers the resultant loss regarding this AP would be limited and clearly outweighed by the following public benefits:

- of meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
- the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.

8.7.279. As such, the ExA finds there is a compelling case in the public interest for including the CA/ TP powers sought in respect of the Proposed

Development within the DCO and that the conditions set out in s122(3) of the PA2008 are satisfied.

## **Statutory undertakers**

### **Cadent Gas Limited**

- 8.7.280. Cadent Gas Ltd (Cadent), raised concerns regarding CA/ TP in its RR [RR-006] stating its primary concern is to meet its statutory obligations and ensure that any development does not impact in any adverse way upon those statutory obligations. As such it advised it would be seeking to protect its position considering infrastructure within or in close proximity to the proposed DCO boundary.
- 8.7.281. It also advised rights to retain its apparatus in situ and rights of access to inspect, maintain, renew, and repair such apparatus located within or in close proximity to the Order Limits should be maintained at all times and access to inspect such apparatus must not be restricted. Cadent therefore advised it would require adequate PP to be included within the DCO to ensure that its apparatus and land interests are adequately protected and to include compliance with relevant safety standards.
- 8.7.282. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot nos. 3-03, 6-09 and 9-15; whilst permanent acquisition of subsurface is being sought in relation to plot nos. 2-05, 2-08, 2-13, 3-13, 3-14, 3-15, 4-05, 6-22, 6-24, 6-25, 9-01, 9-03, 9-07, 9-09, 9-10, 9-12, 9-14, 9-14a, 9-18a, 9-18b, 9-19, 9-19a, 10-01, 10-04, 10-12 and 12-05.
- 8.7.283. The permanent acquisition of rights are also being sought in regard to Plot No. 2-04a. Additionally, the BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of Cadent these new rights would apply to:
- plot no. 2-04a for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development (Work No. 5C) and to impose a restrictive covenant; and
  - plot no. 6-09 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development (Work No. 14A) and to impose a restrictive covenant.
- 8.7.284. With regard to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Cadent) these plot nos. are 2-04, 2-12, 3-01, 3-02, 4-01, 4-02, 6-20, 9-05, 9-06, 9-08, 9-13,



9-20, and 10-04a. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:

- Temporary use as construction working area and for access to facilitate construction.
- Temporary use as a construction access.
- Temporary use as a construction compound and working area.
- Temporary use as a construction access and working area.
- Temporary possession for traffic management.

### **ExA's Response**

- 8.7.285. Cadent maintained through-out the Examination that it required PP ([RR-006], [REP1-052], [REP3-040], [REP7-297] and [REP8-039]) and provided a preferred form of wording, with its last PP preferred wording submitted at DL8 (Appendix 1 of [REP8-039]). However, this preferred PP wording supplied by Cadent differs from the wording promoted by the Applicant in the dDCO.
- 8.7.286. Indeed, there are some quite significant areas of difference, with Applicant's versions having deleted large parts of the 'Interpretations' section and the complete removal of a section on 'Indemnity'. There are also a number of other areas of minor change.
- 8.7.287. Throughout the examination the ExA continually asked for updates regarding the status of outstanding PP, including ExQ1, ExQ2 and ExQ3, as well as during the ISH concerning the dDCO in existence at the time of that Issue Specific Hearing (ISH) 2 (ISH2) ([EV-020] to [EV-022] (Relevant dDCO [REP3-005])); ISH3 [EV-028] to [EV-030] (Relevant dDCO [CR3-008]) and in its Rule 17 letter of 14 September 2023 [PD-028]. The update provided by the Applicant at ISH3, as also set out in the Applicant's Written Summaries of Oral Submissions made at the Hearings held during the week commencing 7 August 2023 [REP7-292], regarding PP with Cadent, advised they were *"...largely agreed, one or two commercial point remain under discussion however the Applicant does not consider these to be irresolvable."*
- 8.7.288. This position was also reflected in the 'Applicant's update on the DCO Drafting' [REP7-294], also submitted at DL7, where it stated:
- "There are no outstanding points of discussions between the Applicant and Cadent in relation to the terms of the PP. However, Cadent's agreement of the PP is subject to agreement on the terms of a private side agreement. The terms of the side agreement are largely agreed, with one outstanding point remaining under consideration."*
- 8.7.289. Irrespective of this, Cadent in its DL8 submission [REP8-039] was clear:
- the PP included in the dDCO ([REP7-013] the APV (the TCV) and [REP7-014] the EPBV) submitted by the Promoter at DL7 *"...are not the Cadent preferred PP. The Promoter still has not provided any comment on the Cadent PP to the Examination and has not justified any departure from the Cadent PP."*

- *"Cadent's position remains as per the evidence in front of the Examination; Cadent requests that the Cadent PP are secured within the DCO."*

8.7.290. The ExA issued, in part due to the conflicting positions being put forward by the Applicant and Cadent in regard to PP, the Rule 17 letter mentioned above [PD-028] seeking further updates and clarification regarding PP. The Applicant responded at DL9 [REP9-012] regarding PP in favour of Cadent, advising:

*"The side agreement has now been agreed and is in circulation for signing meaning that the PP as included in revisions K [REP8-005] and L [REP8-007] of the dDCO are now agreed. It is understood by the Applicant that following signing of the agreement, Cadent's objection will be withdrawn directly by Cadent."*

8.7.291. Irrespective of this at the close of the Examination Cadent had not withdrawn its position regarding PP, as suggested by the Applicant in its DL7 submissions [REP7-292] and [REP7-294], and Cadent, in its DL8 submission [REP8-039], requested the ExA ensures its standard PP are secured in the DCO.

8.7.292. It appears to the ExA that the position between the Applicant and Cadent changed between Cadent's DL8 submission [REP8-039] and the Applicant's responds to the Rule 17 letter issued by the ExA on 14 September 2023 [REP9-012], with the Applicant advising a side agreement had *"...been agreed and circulated for signing, indicating that the PP, as included in dDCO after DL8 being in an agreed form..."* (Final versions of the dDCO being [REP9-011] (the APV (the TCV) and [REP8-007] (the EPBV).

8.7.293. Having considered all representations made in respect of CA/ TP, by both Cadent and the Applicant, as well as the details set out in the Land Plans [CR3-003] and BoR [REP7-025], the ExA is satisfied that the CA/ TP powers sought over the plots nos. identified above are required to facilitate and/ or are incidental to the Proposed Development. It is therefore satisfied that the powers sought meet the conditions set out in s122(2) of the PA2008.

8.7.294. Whilst the exercising of these rights has the potential to interfere with Cadent's undertaking, having considered the 'Applicant's Response to the Rule 17 Request for Information' [REP9-012] it appears a side agreement has been reached and the PP, as included in dDCO after DL8 are in an agreed format. Additionally, the ExA consider the PP as included in the current dDCO provide an appropriate level of protection in terms of Cadent's apparatus and statutory undertaking.

8.7.295. In the absence of confirmation of the above from Cadent, the ExA considers the need for the Proposed Development is clearly highlighted in the emerging dNPS's, which are important and relevant in the consideration of this Proposed Development. Furthermore, the ExA considers the impact on this AP would be clearly outweighed by the

public benefits that would result from the Proposed Development, including:

- meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
- the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.

8.7.296. On balance, subject to PP being included in the DCO in the form indicated to be finally agreed at the close of the Examination (DL9), the ExA considers the CA/ TP powers sought in respect of the above-mentioned plot nos. would not result in serious detriment to the carrying on of Cadent's undertaking. Furthermore, the ExA is satisfied that the inclusion of powers in respect of the extinguishment of rights would be necessary for the purpose of carrying out the development. As such, it considers the tests set out in s127 and s138 of the PA2008 are met.

8.7.297. The ExA also considers the public benefits that would result from this proposed Development outweighs any loss or detriment that may result from the creation of these rights compulsorily. Accordingly, it considers there is a compelling case in the public interest for CA powers to be included in respect of the identified plots and that the test set out in s122(3) is also met.

#### **Canal and River Trust**

8.7.298. The CRT raised objections regarding CA/ TP in its RR [RR-008] stating as a SU it has specific duties to protect the waterways and therefore a duty to resist the use of compulsory purchase powers that may negatively affect its land or undertakings. It advised should any CA powers over its land be retained in the Order, such acquisition should only be with the consent of the CRT.

8.7.299. In addition to the above, the CRT argues:

- there is not a compelling case in the public interest for compulsory purchase powers to be acquired in the manner sought by the Applicant. It points out such powers are intended to be used as a matter of last resort and it considers the Applicant has failed to use reasonable efforts to voluntarily acquire the land and rights they require from the CRT; and
- the justification for the extent of CRT land sought to be acquired for a single pipeline crossing of the canal is questionable, advising it considered acquiring a right over a narrow section of subsoil at least 3.5m below the bed level of the canal would be sufficient for the pipeline.

8.7.300. The CRT also raised concerns regarding a number of Articles in the dDCO as originally submitted [APP-024], including the Articles in Part 5 (Powers

of Acquisition) being Articles: 24 (Compulsory Acquisition of Land), 31 (Acquisition of Subsoil), 34 (Temporary Use of Land), and 36 (Statutory Undertakers). It also noted the originally submitted dDCO [APP-024] contained no PP in its favour and as a statutory undertaker it considered it should be afforded such PP.

8.7.301. The Applicant seeks CA powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot no. 9-06; whilst permanent acquisition of subsurface is being sought in relation to plot no. 8-03. These documents also set out the plot nos. over which new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). However, no new rights are listed in this Schedule in relation to the above-mentioned plot nos.

8.7.302. With regard to TP, no TP of land related to the CRT is listed within the dDCO at Schedule 7 (Land of which TP may be taken), nor is any TP relevant to the CRT specified in the BoR [REP7-025] or in the Land Plans [CR3-003].

### **ExA's Response**

8.7.303. The Applicant and the CRT continued to engage through-out the Examination, although by the time it closed the objection from CRT had not been withdrawn.

8.7.304. The completed SoCG with the CRT [REP7-265] agrees the parties have been engaging on PP and had reached agreement on all matters with the exception of those that limited the Applicant's CA powers. This SoCG confirms that the Applicant and the CRT are continuing to engage on the voluntary agreement to acquire the CRT's land and advised, once agreement is reached, the outstanding point in PP will be agreed.

8.7.305. Indeed, in regard to PP the CRT confirmed at DL6 [REP6-038] that it was considering suggested revisions and comments and that a number of matters within the PP had been discussed and agreed at a meeting between the parties in July 2023. The CRT advised it intended to formally respond to the Applicant on the outstanding matters and was keen to work with them to reach agreement on them.

8.7.306. The position in the completed SoCG [REP7-265] was also confirmed by the CRT in its DL8 submission [REP8-040] where it stated "*...the only outstanding matter in the PP... is regarding restricting the use of compulsory acquisition powers. The [CRT] consider that this should be via suitable voluntary land rights.*" However, the CRT also noted the Applicant confirms that as a voluntary agreement has not yet been concluded this demonstrates why CA powers were required to deliver the project. As such the CRT argue the lack of a voluntary agreement being in place was not due to lack of effort on its behalf and that it was still hopeful that such agreement could be reached with the Applicant.

8.7.307. Irrespective of this, the completed SoCG with CRT [REP7-265] does confirm that subject to a voluntary land agreement being agreed the

outstanding point in the PP will be agreed. Despite this no confirmation of the completion of such an agreement or agreement to the PP was entered into the Examination prior to its close, nor did the ExA receive any confirmation from the CRT it had removed its objection.

8.7.308. In the Applicant's 'Response to the ExA's Rule 17 letter' [REP9-012], the Applicant confirmed "The position remains as set out in the DL7 update on DCO drafting [REP7-294] that the only point not agreed on is restriction of CA powers." However, in the same response it also confirmed:

*"The parties continue to progress the voluntary land agreement, however as that is not yet complete, the Applicant cannot agree to the removal of such powers. All of the provisions required to protect the undertaking, including the need for technical approvals of works under the canal are agreed, and the Applicant therefore submits the provisions are sufficient to ensure that no serious detriment will arise."*

8.7.309. Having considered all representations made in respect of CA/ TP, by both the CRT and the Applicant, as well as the details set out in the Land Plans [CR3-003] and BoR [REP7-025], the ExA agrees with the Applicant's position as set out above. Furthermore, the ExA is satisfied that the CA/ TP powers sought over the plots nos. identified above are required to facilitate and/ or are incidental to the Proposed Development. It is therefore satisfied that the powers sought meet the conditions set out in s122(2) of the PA2008.

8.7.310. Despite reaching this position, it is clear to the ExA that both parties have made substantial progress regarding the voluntary agreement and PP and the ExA sees no reason why the Applicant and the CRT would not have reached an amicable agreement in regard to PP by completing the outstanding voluntary land agreement.

8.7.311. Irrespective of whether agreement is reached between the parties regarding the voluntary agreement and PP, it is clear to the ExA that the exercising of CA rights has the potential to interfere with the CRT's undertaking. However, as set out above, the ExA is satisfied that the PPs as currently drafted would adequately protect CRT's undertaking, including the need for technical approvals of works under the canal to be agreed.

8.7.312. In terms of public benefits, the ExA considers the Proposed Development would provide public benefits by:

- meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
- the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.

8.7.313. In conclusion, the PP being included in the rDCO attached at Appendix D of this report are considered by the ExA to afford the CRT an appropriate level of protection in terms of its statutory undertaking, land and any apparatus and ensure the Proposed Development would not result in serious detriment to the carrying on of CRT's undertaking. Furthermore, the ExA is also satisfied that the inclusion of powers in respect of the extinguishment of rights would be necessary for the purpose of carrying out the development. As such, the ExA considers the tests set out in s127 and s138 of the PA2008 are met.

8.7.314. The ExA also consider the public benefits that would result from this proposed Development outweighs any loss or detriment that may result from the creation of these rights compulsorily. Accordingly, it considers there is a compelling case in the public interest for CA powers to be included in respect of the identified plots and that the test set out in s122(3) is also met.

### **Environment Agency**

8.7.315. The EA, raised concerns regarding CA/ TP in its RR [RR-024] advising "*At this stage, we are unable to confirm that there are no objections to the acquisition of any of our land interests.*" *It also advised the Applicant is consulting with... [its relevant] Ops team to... address queries relating to affected land ownership.*"

8.7.316. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003], permanent acquisition of land is being sought in relation to plot no. 6-03; whilst permanent acquisition of subsurface is being sought in relation to plot nos. 1-25, 2-01, 3-14, 3-15, 3-17, 4-07, 4-10, 4-13, 5-14, 5-16, 6-02, 6-10, 6-14, 6-17, 6-19, 6-23, 9-14a, 9-16, 9-16a, 9-16b, 9-17 and 12-10.

8.7.317. In addition, the above-mentioned documents also indicated the permanent acquisition of rights are being sought in regard to Plot No. 1-01a, 1-04, 1-06, 1-21 and 6-07.

8.7.318. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of the EA these new rights would apply to plot nos. 1-01a, 1-04, 1-06, 1-07, 1-21 and 6-07 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose restrictive covenants.

8.7.319. With regard to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (the EA) these plot nos. are 5-24, 5-25, 5-26 and 6-11. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is specified as temporary use for access and peat storage.

## ExA's Response

- 8.7.320. The EA continued to engage through-out the Examination, making submissions at DL1, DL3 and all subsequent DLs until DL8 where it made its closing submissions. It also provided a RR to CR1 and took part in both CAHs (CAH1 and CAH2).
- 8.7.321. In regard to CA/ TP the Applicant's completed SoCG with the EA [REP9-004] is clear the EA continued to engage with the Applicant through-out the Examination, with a view to negotiating in regard to its land interests and seek clarification (primarily in regard to Work No. 57F that is being safeguarded by the Applicant for additional mitigation measures). This SoCG also confirmed as agreed:
- The principle on 5 August 2022 to the use of trenchless crossing technology to construct the pipeline beneath the river Gowy; and
  - PP were agreed between both parties on 5 September 2023.
- 8.7.322. It appears to the ExA that negotiations with regard to CA/ TP between the Applicant and the EA were progressing, with the Applicant having provided "*Heads of Terms for the Gowy channel bed, which was accompanied with an 'Option agreement and Lease for environmental mitigation land relating to the...'*" Proposed Development. (SoCG [REP9-004] Table 2-1 Record of Engagement in relation to the DCO Proposed Development (4 September 2023)).
- 8.7.323. Although these CA/ TP matters remained unresolved, in part due to the mitigation works in Work No. 57F where the EA sought further clarification, the ExA noted the SoCG at Table 2-1 provided an update dated 8 September 2023. The update confirmed the Applicant's e-mail dated 8 September 2023 provided the EA with some responses to Heads of Terms/ Work No. 57F matters raised, particularly in relation to Water Framework Directive (WFD) and ecological mitigation and enhancements. The Applicant advised it shared:
- The proposed mitigation/ enhancements within the floodplain of the river Gowy will not impact the channel bed, banks, or embankments.
  - The proposed mitigation/ enhancements will not compromise the achievement of the River Gowy WFD mitigation measures.
  - At detailed design, further engagement with the EA will be undertaken to ensure the integrity of the embankments, channel, and maintenance access and for the potential future delivery of the River Gowy WFD mitigation measures.
  - A buffer strip will be maintained of approximately 8m, to be confirmed with the EA during detailed design.
- 8.7.324. The Applicant provided further clarification in regard to Work No. 57F in its '...Response to the ExA's Third Written Questions [REP8-036]'. However, no confirmation of these parties having reached agreement on these CA/ TP matters was received by the ExA prior to the close of the Examination, although it was noted the Applicant's completed SoCG with the EA [REP9-004] agrees PP in favour of the EA had been reached on 5 September 2023.

- 8.7.325. Irrespective of the above, the EA did not withdraw its objection in regard to CA/ TP prior to the closure of the Examination.
- 8.7.326. Having considered all representations made in respect of CA/ TP, by both the EA and the Applicant, as well as the details set out in the Land Plans [CR3-003] and BoR [REP7-025], the ExA is satisfied that the CA/ TP powers sought over the plots nos. identified above are required to facilitate and/ or are incidental to the Proposed Development and that adequate PP are in place to protect the EA's interests in this regard. It is therefore satisfied that the powers sought meet the conditions set out in s122(2) of the PA2008.
- 8.7.327. In terms of public benefits, the ExA considers the Proposed Development would provide public benefits by:
- meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
  - the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.
- 8.7.328. As noted above, discussions between the EA and the Applicant in regard to CA/ TP matters continued throughout the Examination and the ExA was kept updated on progress. However, the *'Option agreement and Lease for environmental mitigation land remained outstanding at the close of the Examination.* Regardless of this, it was clear to the ExA that both the EA and the Applicant were at an advanced stage of negotiations in relation to these matters and the ExA holds the view these parties were capable of reaching a resolution, especially in the light of them having agreed PP.
- 8.7.329. As such, the ExA is of the opinion that the parties' cases are sufficiently well set out that it is able to come to a view on these outstanding matters concerning CA/ TP, as highlighted above and in the submissions of the parties. It considers these matters are capable of resolution by the completion of an option agreement and the granting of a Lease for environmental mitigation land. The option agreement and lease, when combined with the agreed PP will in the ExA's opinion adequately address the remaining matters in dispute.
- 8.7.330. Overall, the side agreement and lease once concluded, together with the agreed PP should provide the necessary confidence to ensure use of the CA/ TP powers are appropriately applied to those required to carry out the development, whilst not resulting in harm to the EA's land, apparatus, and statutory undertaking.
- 8.7.331. In conclusion, the PP being included in the rDCO attached at Appendix D of this report are considered by the ExA to afford the EA an appropriate level of protection in terms of its statutory undertaking, land and any apparatus and ensure the Proposed Development would not result in



serious detriment to the carrying on of the EAs undertaking. Furthermore, the ExA is also satisfied that the inclusion of powers in respect of the extinguishment of rights would be necessary for the purpose of carrying out the development. As such, the ExA considers the tests set out in s127 and s138 of the PA2008 are met.

- 8.7.332. The ExA also considers the public benefits that would result from this proposed Development outweighs any loss or detriment that may result from the creation of these rights compulsorily. Accordingly, it considers there is a compelling case in the public interest for CA powers to be included in respect of the identified plots and that the test set out in s122(3) is also met.

### **Exolum Pipeline Systems Limited**

- 8.7.333. Exolum Pipeline Systems Limited (Exolum) submitted a copy of its response to the consultation under s42 of the PA2008 as its RR [RR-033]. Whilst that RR did not specifically raised objection to CA/ TP, it raised concern regarding the proximity of the Proposed Development to its apparatus advising its consent for such work would be required. This RR also advised "*...in this instance, consent would not be granted as the proposed development would restrict access to the pipeline, both for routine maintenance and in an emergency situation.*"
- 8.7.334. In addition, Exolum's DL8 submission [REP8-050], which provided an update in regard to PP, clearly advised the only remaining area of concern related to the wording of the PP at paragraph 3.1 in regard to "*...preventing the acquisition of Exolum's premises and interests in land.*" Therefore, the ExA considers Exolum object to CA/ TP in relation to the Proposed Development.
- 8.7.335. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot nos. 6-28, 7-07, 7-08, 7-09, 8-01; whilst permanent acquisition of rights is being sought in relation to plot no. 6-27.
- 8.7.336. Additionally, these documents also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of Exolum these new rights would apply to plot no. 6-27 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development, together with the right to impose a restrictive covenant.
- 8.7.337. With regard to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (Exolum) these plot nos. are 7-10, 8-02 and 8-09. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:

- Temporary use as working area.
- Temporary use as construction working area and for access.
- Temporary use as a construction access, compound and working area.

### **ExA's Response**

- 8.7.338. The Applicant, in its DL7 submission 'Applicant's update on the DCO Drafting' [REP7-294] advised discussions on PP with Exolum were ongoing, but some areas of the PP sought remained in disagreement. These areas of disagreement related to compulsory powers, the definition of deed of consent, rights of access and the timeframe to approve plans.
- 8.7.339. Exolum in its DL8 submission [REP8-050] advised PP are agreed save wording preventing the acquisition of Exolum's premises and interests in land, as set out in Exolum's preferred PP also submitted at DL8 [REP8-051]. It noted the Applicant has not agreed to the inclusion of its wording, but noted equivalent wording appears in other PP within the dDCO submitted at DL7 [REP7-014], quoting Part 3 paragraph 20, Part 4 paragraph 36, and Part 5 paragraph 52. As such it advised it hoped the Applicant would agree to the inclusion of this wording and advised it would continue to engage with the Applicant to agree the PP.
- 8.7.340. The Applicant in its DL7 submission [REP7-294], also mentioned above, sets out its reasoning why it cannot concede in regard to this matter. In terms of Compulsory powers it stated:
- "The Applicant cannot agree to any limits to the compulsory powers by way of requiring Exolum's consent to exercise those compulsory powers in the absence of a suitable voluntary land rights agreement. That a voluntary agreement has not yet been concluded demonstrates why these powers are required to ensure delivery of the NSIP."*
- 8.7.341. The ExA's Rule 17 letter [PD-028], sought further information in regard to the exclusion of Exolum's preferred wording and in the 'Applicant's Response to the Rule 17 Request for Information' [REP9-012] it objected to the 'lifting' of wording from other PP and advised it considered that applying them in this instance it would fail to have regard to the different facts and circumstances in place in this case. However, at Appendix 1 of that document revised PP wording was provided and in Appendix 8 of the same document a copy of an e-mail submitted on behalf of Exolum, from Veale Wasbrough Vizards LLP, dated 20 September 2023 was provided. That e-mail confirmed the PP, as amended were agreed.
- 8.7.342. Irrespective of the above, no confirmation of Exolum removing its objections to CA/ TP or the PP were received into the Examination prior to its close.
- 8.7.343. Having considered all representations made in respect of CA/ TP, by both Exolum and the Applicant, as well as the details set out in the Land Plans [CR3-003] and BoR [REP7-025], the ExA is satisfied that the CA/ TP powers sought over the plots nos. identified above are required to facilitate and/ or are incidental to the Proposed Development. It is

therefore satisfied that the powers sought meet the conditions set out in s122(2) of the PA2008.

- 8.7.344. Whilst the exercising of these rights has the potential to interfere with Exolum's undertaking, it appears to the ExA that the PP between Exolum and the Applicant appearing to have been finally agreed. Having considered the PP submitted at DL9, as included in the appendices of the 'Applicant's Response to the Rule 17 Request for Information' [REP9-012], the ExA considers these to provide a more appropriate level of protection in terms of its land, apparatus, and statutory undertaking.
- 8.7.345. In reaching this position, the ExA is especially persuaded by the e-mail included at Appendix 8 of the 'Applicant's Response to the Rule 17 Request for Information' [REP9-012].
- 8.7.346. In terms of public benefits, the ExA considers the Proposed Development would provide public benefits by:
- meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
  - the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.
- 8.7.347. On balance, subject to PP being included in the DCO in the form indicated to be finally agreed at the close of the Examination (DL9), the ExA considers the CA/ TP powers sought in respect of the above-mentioned plot nos. would not result in serious detriment to the carrying on of Exolum's undertaking. Furthermore, it is also satisfied that the inclusion of powers in respect of the extinguishment of rights would be necessary for the purpose of carrying out the development. As such, the ExA considers the tests set out in s127 and s138 of the PA2008 are met.
- 8.7.348. The ExA also consider the public benefits that would result from this proposed Development outweighs any loss or detriment that may result from the creation of these rights compulsorily. Accordingly, it considers there is a compelling case in the public interest for CA powers to be included in respect of the identified plots and that the test set out in s122(3) is also met.

### **Network Rail (England and Wales)**

- 8.7.349. NR raised objections regarding CA/ TP in its RR [RR-026] and WR [REP1-072] advising it is a SU with both statutory and regulatory obligations in respect of maintaining, operating, protecting, and enhancing the country's railway infrastructure. It confirmed it did not object in principle to the Proposed Development, however, it did object to powers contained in within the DCO, specifically Articles 19, 21, 22, 24, 26, 27, 28, 29, 31, 33, 34, 35 and 39, which would authorise the

Applicant to CA land, rights in or over land, or TP land that it relies upon for the carrying out of its statutory undertaking.

- 8.7.350. In addition to the above NR advised it also objected to the Applicant's proposed PP, noting they were amended from its standard PP. It did not consider it could agree to the revisions the Applicant had included.
- 8.7.351. NR stated it expected the necessary subsoil rights or other rights to be acquired through an agreed easement, rather than through the exercise of CA powers and urged negotiations regarding heads of terms on an option agreement, as well as reaching agreement on PP. In addition, NR considered both a Framework Agreement and an Asset Protection Agreement would be required to manage the direct interface that the DCO has with the operational railway (Framework Agreement); and to ensure the appropriate and necessary technical, engineering and safety requirements for working on or near Network Rail's operational railway are applied to the DCO Scheme (Asset Protection Agreement).
- 8.7.352. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot nos. 1-23, 9-21, 14-29, 17-12 and 19-04; whilst permanent acquisition of rights is being sought in relation to plot no. 1-06b and temporary use of rights are being sought in relation to Plot Nos. 9-24 and 9-25. Additionally, these documents also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of NR these new rights would apply to plot no. 1-06b for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development (Work No. 3B), together with the right to impose a restrictive covenant.
- 8.7.353. With regard to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (NR) these plot nos. are 9-23, 14-24 and 19-04c. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:
- Temporary use as a construction access.
  - Temporary use as a construction access and working area.
  - Temporary use as working area.

### **ExA's Response**

- 8.7.354. The Applicant in the SoCG completed with NR [REP8-026] confirms "*A set of draft PP was circulated by NR and following discussions between NR and the Applicant it was confirmed on 30 August 2023 that the PP were now agreed between the parties.*" However, the SoCG also sets out "*NR will require the Applicant to append the agreed PP to the Framework Agreement*" and, in relation to dDCO Articles that are marked as 'under

discussion' in the completed SoCG, it notes "...NR maintains its objection" and "...NR will only withdraw its objection upon completion of the Framework Agreement with the appended PP."

- 8.7.355. This position was further clarified at DL9 in the Applicant's response to the ExA's Rule 17 letter dated 14 September 2023 [REP9-012], where it stated the "...framework agreement and PP have been agreed. The framework agreement is in the process of being signed but that process has not yet been completed. It is understood that this agreement resolves NR's concerns." Additionally, the Applicant provided a copy of an email from NR to the Applicant, dated 20 September 2023, with the subject heading 'HyNet North-West CO<sub>2</sub> Pipeline - NR PP and Framework Agreement's' confirming "...the terms of the Framework Agreement in respect of the land subject to the proposed HyNet Carbon Dioxide Pipeline Order are agreed, subject to the signing formalities." (See Appendix 8 of [REP9-012]).
- 8.7.356. Irrespective of the above, no confirmation of NR removing its objections to CA/ TP or the PP were received prior to the Examination close.
- 8.7.357. Having considered all representations made in respect of CA/ TP, by both NR and the Applicant, as well as the details set out in the Land Plans [CR3-003] and BoR [REP7-025], the ExA is satisfied that the CA/ TP powers sought over the plots nos. identified above are required to facilitate and/ or are incidental to the Proposed Development. The ExA is therefore satisfied that the powers sought meet the conditions set out in s122(2) of the PA2008.
- 8.7.358. Whilst the exercising of these rights has the potential to interfere with NR's undertaking, it appears to the ExA that the PP between NR and the Applicant appearing to have been agreed, with the Framework Agreement being agreed, subject to signing formalities. Having considered the PP in the dDCO, the ExA considers these provide an appropriate level of protection in terms of NR's land, apparatus, and statutory undertaking.
- 8.7.359. In reaching this position, the ExA is especially persuaded by the e-mail included at Appendix 8 of the 'Applicant's Response to the Rule 17 Request for Information' [REP9-012].
- 8.7.360. In terms of public benefits, the ExA considers the Proposed Development would provide public benefits by:
- meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
  - the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.

- 8.7.361. On balance, subject to PP being included in the DCO in the form indicated to be finally agreed at the close of the Examination (DL9), the ExA considers the CA/ TP powers sought in respect of the above-mentioned plot nos. would not result in serious detriment to the carrying on of NR's undertaking. Furthermore, the ExA is also satisfied that the inclusion of powers in respect of the extinguishment of rights would be necessary for the purpose of carrying out the development. As such, the ExA considers the tests set out in s127 and s138 of the PA2008 are met.
- 8.7.362. The ExA also considers the public benefits that would result from this Proposed Development outweighs any loss or detriment that may result from the creation of these rights compulsorily. Accordingly, the ExA considers there is a compelling case in the public interest for CA powers to be included in respect of the identified plots and that the test set out in s122(3) is also met.

### **National Grid Electricity Transmission PLC/ National Grid Gas PLC.**

- 8.7.363. NGET and NGG both raised concerns regarding CA/ TP in their RRs ([RR-062] (NGET) and [RR-063] (NGG)). Both NGET and NGG are SUs and set out their interests in relation to their statutory obligations. These included, but were not limited to:
- requiring appropriate protection for retained apparatus, including compliance with relevant standards for works proposed within close proximity of its apparatus; and
  - retention of rights of access to inspect, maintain, renew, and repair such apparatus being maintained at all times, including ensuring access to inspect and maintain such apparatus is not restricted.
- 8.7.364. Additionally, both SUs noted the Applicant's intention to acquire land or rights or interfere with any of their interests in land or apparatus, and advised they would require appropriate protection. They also confirmed they were seeking to discuss the required impact to their apparatus and rights further with the Applicant, stressing their primary concern is to meet their statutory obligations and ensure that any development does not impact in any adverse way upon those statutory obligations.
- 8.7.365. Both parties advised of their duty to protect their position in relation to infrastructure and land, which is within or in close proximity to the draft Order Limits and as such would require their standard PP to be included within the dDCO for the Proposed Development when made, along with any supplementary agreements that may be necessary, to ensure that their interests are adequately protected and to ensure compliance with relevant safety standards.
- 8.7.366. NGET noted it had not been consulted on the form of PP included within the dDCO, as originally submitted, and confirmed that as drafted, at that point in time, they were not in a form acceptable to them; whilst NGG advised it was liaising with the Applicant in relation to such PP, and supplementary agreements which may be required, and would continue to engage with the Applicant in regard to these matters seeking to

ensure protection for those its assets which will remain in situ, along with facilitating all future access and other rights as are necessary to allow it to properly discharge its statutory obligations.

8.7.367. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of:

- Land is being sought in relation to plot nos.
  - NGET: 3-03, 3-12 and 8-12; and
  - NGG: None.
- Subsurface is being sought in relation to plot nos.
  - NGET: 1-20, 2-03, 2-05, 2-08, 2-09, 2-10, 2-13, 3-11, 3-14, 3-15, 4-06, 4-09, 4-10, 4-12, 4-13, 4-14, 4-15, 4-19, 7-07, 7-09, 8-05, 8-07, 8-10, 8-15, 8-16, 20-12, 20-13, 20-14, 20-18 and 20-19; and
  - NGG: 7-04, 7-06 and 7-07.
- Rights is being sought in relation to plot no.
  - NGET: 1-01, 1-01a, 1-02, 1-03, 1-06, 1-06a, 1-06b, 1-06c, 1a-01, 1a-02, 1a-03, 2-02a, 2-04a, 3-06, 13-01, 13-02, 13-03 and 16-29; and
  - NGG: 1a-01, 1a-02, 7-03 and 7-03a.

8.7.368. In addition to the above, the above-mentioned documents also indicated temporary use of rights are being sought in relation to Plot No. 2-06, in which NGET holds an interest. These documents also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. These would be new rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development, together with the right to impose restrictive covenants and relation to:

- NGET plot no. 1-01, 1-01a, 1-02, 1-03, 1-06, 1-06a, 1-06b, 1-06c, 1a-01, 1a-02, 1a-03, 2-02a, 2-04a, 3-06, 13-01, 13-02, 13-03 and 16-29; and
- NGG plot no. 1a-01, 1a-02, 7-03 and 7-03a.

8.7.369. With regard to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. No TP is proposed in relation to NGG, however, in terms of NGET TP is sought regarding plot nos. 1-06d, 2-02, 2-04, 2-11, 4-02, 4-04, 4-11, 7-10, 8-06, 8-09, 20-17, 20-20 and 29-02. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:

- Temporary use as a construction access.

- Temporary use as a construction working area and for access to facilitate construction.
- Temporary use as a construction compound and working area.
- Temporary use as a construction access including visibility splay.
- Temporary use as working area.
- Temporary use as a construction access, compound and working area.

### **ExA's Response**

- 8.7.370. As set out above NGG advised it was liaising with the Applicant in relation to such PP, along with any supplementary agreements which may be required. However, NGET advised it had not been consulted on the form of PP and confirmed that as currently drafted the PP were not in a form acceptable to it. Irrespective of this, NGET also confirmed it was liaising with the Applicant in relation to PP, along with any supplementary agreements which may be required.
- 8.7.371. Both NGG and NGET requested that the Applicant continue to engage with them to provide explanation and reassurances as to how the Applicant's works pursuant to the Order (if made) will ensure protection for their assets that will remain in situ, along with facilitating all future access and other rights as are necessary to allow them to properly discharge their statutory obligations.
- 8.7.372. Both NGG and NGET advised they "*...would continue to liaise with the Applicant in this regard with a view to concluding matters as soon as possible during the DCO Examination and will keep the ExA updated in relation to these discussions.*"
- 8.7.373. Copies of PP were supplied by NGG [REP1-066] and NGET [REP1-067] at DL1, but these were submitted on their own and not accompanied by any covering letter or explanation. The Applicant has submitted a number of Draft Statements of Common Ground (dSoCG), which had been supplied to both NGET and NGG, with the latest dSoCG being submitted at DL6 (NGG [REP6-018] and NGET [REP6-017]). Both of these dSoCG state PP are "Under Discussion" with the current position being standard PP are required to be included within the final version of the dDCO to safeguard NGGs and NGETs assets, with the form of PP still under discussion. These dSoCG set out that "*Engagement between the parties is iterative and constructive.*" Irrespective, these are dSoCG and only limited weight can be given to them.
- 8.7.374. The Applicant provided an update regarding the status of PP in its document entitled 'Applicant's update on the DCO Drafting' at DL7 [REP7-294]. In regard to NGG and NGET it advised:
- "These provisions are largely identical in substance. In both cases the provisions are mostly agreed subject to two exceptions. The first is in the Indemnity clause where the Applicant seeks the addition of the text.. underlined below;*
- *—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part*



*of this Schedule or in consequence of the construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Gas Transmission, or there is any interruption in any service provided, or in the supply of any goods or energy, by National Gas Transmission, or National Gas Transmission becomes liable to pay any amount to any third party, and provided that at all times National [Grid] [Gas Transmission] will be under an obligation to take reasonable steps to mitigate its loss, the undertaker will—*

*a) bear and pay on demand accompanied by an appropriately detailed invoice or appropriately detailed claim from National...*

*The second instance of not agreed wording is in the co-operation paragraph:*

- *—(2) For the avoidance of doubt whenever National [Grid] [Gas Transmission]’s consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed, and any action, decision, cost and/ or expense which may be claimed under this Part of this Schedule shall at all times be subject to National [Grid] [Gas Transmission] acting reasonably.”*

8.7.375. In regard to –(1) above the Applicant states it considers “...it is entirely reasonable where an uncapped indemnity is given that the normal position of parties making a claim to be required to mitigate their own loss (as would apply in compensation claims) is applied.” It also considers “...it reasonable that claim be appropriately detailed to allow the Applicant to understand what costs have been incurred and why these are reasonable.”

8.7.376. In regard to –(2) above the Applicant stated it “...should be uncontroversial that parties should only claim reasonable costs” and notes it is in discussion to resolve the provisions drafting through a side agreement. The Applicant advised it was “...confident that agreement can be reached by DL8 and will advise the Examination of any update at DL8.”

8.7.377. Other than the RRs and the submission of NGG’s and NGET’s standard PP at DL1, neither has engage beyond this in the Examination process, despite having the opportunity to respond, including at DL8 to the Applicant’s DL7 submissions.

- 8.7.378. The ExA asked the Applicant for an update on PP on 14 September 2023 in its Rule 17 letter [PD-028]. In its response submitted at DL9 [REP9-012] the Applicant commented, in regard to NGG and NGET that:
- "The position remains as set out in the DL7 update on DCO drafting [REP7-294] that there are two minor points of drafting not agreed. The Applicant does not consider these points to be controversial. Those changes as shown in track in the DL8 submission and were sent to National Grid on 16 August 2023, but no comments have been received. The provisions as set out in the dDCO [REP8-005] at DL8 are sufficient to ensure that no risk of serious detriment applies."*
- 8.7.379. Irrespective of the above, no confirmation of NGET/ NGG removing their concerns in regard to CA/ TP or the PP were received into the Examination prior to its close.
- 8.7.380. Having considered all representations made in respect of CA/ TP, by NGET, NGG, and the Applicant, as well as the details set out in the Land Plans [CR3-003] and BoR [REP7-025], the ExA is satisfied that the CA/ TP powers sought over the plots nos. identified above are required to facilitate and/ or are incidental to the Proposed Development. The ExA is therefore satisfied that the powers sought meet the conditions set out in s122(2) of the PA2008.
- 8.7.381. Whilst the exercising of these rights has the potential to interfere with NGET's and NGG's undertakings, it appears to the ExA that the position of the Applicant regarding the two minor drafting point, as set out above, is reasonable. Indeed, having considered the wording in the PP, as well as the justifications it has put forward in regard to the 'minor drafting points, the ExA is satisfied the wording of the PP, as set out in the Applicant's final versions ((the APV) [REP9-011] and the EPBV [REP8-007]) provides an appropriate level of protection in terms of NGET's and NGG's land, apparatus, and statutory undertakings.
- 8.7.382. In reaching this position, the ExA is especially persuaded by the 'Applicant's update on the DCO Drafting' at DL7' [REP7-294] and its responses contained in its 'Applicant's Response to the Rule 17 Request for Information' [REP9-012].
- 8.7.383. In terms of public benefits, the ExA considers the Proposed Development would provide public benefits by:
- meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
  - the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.
- 8.7.384. On balance, subject to PP being included in the DCO in the form currently set out in the Applicant's final versions ((the APV) [REP9-011] and the

EPBV [REP8-007]), the ExA considers the CA/ TP powers sought in respect of the above-mentioned plot nos. would not result in serious detriment to the carrying on of NGET's or NGG's undertakings. Furthermore, the ExA is also satisfied that the inclusion of powers in respect of the extinguishment of rights would be necessary for the purpose of carrying out the development. As such, the ExA considers the tests set out in s127 and s138 of the PA2008 are met.

- 8.7.385. The ExA also considers the public benefits that would result from this proposed Development outweighs any loss or detriment that may result from the creation of these rights compulsorily. Accordingly, the ExA considers there is a compelling case in the public interest for CA powers to be included in respect of the identified plots and that the test set out in s122(3) is also met.

### **National Highways**

- 8.7.386. NH, raised objection in regard to CA/ TP in its RR [RR-064]. In both RR [RR-064] and WR [REP1-069] NH highlighted that it is the SU responsible for managing the Strategic Road Network (SRN) in accordance with the requirements of its statutory licence and in general conformity with the requirements of the Highways Act 1980, and to satisfy the reasonable requirements of road safety. It noted the originally submitted BoR [APP-030] (Current version [REP7-025] identified a number of plots of land owned or occupied by NH, including land forming part of the SRN being the M53 and M56.
- 8.7.387. It was also noted by NH that the types of CA powers sought were also listed and over those plots in which it held an interest these included the permanent acquisition of land (in some cases the subsurface only), the permanent acquisition of rights and the temporary possession of land.
- 8.7.388. NH advises in order to safeguard NHs interests, as well as the safety and integrity of the SRN, it objected to the inclusion of the plots in which it holds an interest being included in the DCO and to the CA Powers being granted in respect of them.
- 8.7.389. Additionally, NH in its WR emphasised its objection to the permanent acquisition of the subsoil in plot 5-06, 5-09 and 7-05, which comprise land forming part of the SRN being the M53 and M56, especially as it considered the:
- BoR to be unclear as to what comprises "subsurface" being an element of the freehold being sought.
  - permanent acquisition of the subsoil beneath the carriageway of both motorways would cause detriment due to loss of ownership of the estate and would therefore affect the ability to comply with regulatory responsibilities.
- 8.7.390. Furthermore, NH raised questions concerning the depth of ownership in terms of maintenance, as it considered there would be potential for ownership of the subsurface to become indistinct and creating a potential for NH to trespass into third party land when carrying out vital and

critical works necessary to support its undertaking. It also considered CA of subsurface could:

- potentially create a ransom position, should other parties need to place apparatus over or under the highway, where a third party own that land;
- result in a time when land beneath all highways no longer lies in public ownership, should CA of subsurface become common practice, which may have implications for future development with those third parties holding strong ransom positions; and
- affect NH's ability to place apparatus beneath the highway, as it has done in numerous locations across the SRN, at the request of others, without third party approval. It points out that as a responsible public body, with statutory obligations to facilitate sustainable development, it routinely accommodates such requests in its role as street authority and landowner and this ability to concede to such request may be lost.

8.7.391. In addition to the above NH raise concern regarding the permanent acquisition of rights, as the rights in question include, inter alia, rights of drainage, rights of access and maintenance rights. NH states all these rights are necessary for it to carry out its undertaking and should they be extinguished this would cause serious detriment to NH's undertaking by introducing public safety risks.

8.7.392. NH stressed it must carry out its statutory duty of maintaining the integrity and safety of the SRN and that, in its opinion, to CA the "subsurface", and limit in any way the safe running of the SRN, would have the potential to compromise its ability to carry out such statutory duties.

8.7.393. In regard to all of the plot nos. NH holds an interest in, it states the plots constitute land acquired for the purpose of its statutory undertaking and it does not consider there to be a compelling case in the public interest for the CA Powers and that the SOS, in applying s127 of the PA2008, cannot conclude that the permanent acquisition of land forming the SRN and the creation of new rights and restrictions over all of the Plots can be created without serious detriment to NH's undertaking.

8.7.394. NH also stated:

- no other land is available to it to remedy the detriment; and
- it objected to all other CA powers in the DCO that affect, and may be exercised in relation to, its property and interests.

8.7.395. NH argues the Applicant's case for CA has not been satisfactorily made out as, in its view, the same end result could be achieved pursuant to s50 of the New Roads and Street Works Act 1991 (NRSWA). It notes CA is intended to be a measure of last resort once all efforts to negotiate have failed and would seek the opportunity to discuss the Applicant's requirements rather than it simply relying on CA, especially as being a public body it is important to ensure the proper and efficient use of public resources.

8.7.396. Irrespective of NH's objections, its WR [REP1-069] notes it does not object to the principle of the Proposed Development but qualifies this statement advising its objections must be resolved before they would be in a position to withdraw them. In order to withdraw its objection NH advises:

- PP in its favour being incorporated into the DCO;
- agreements are in place between it and the Applicant that regulate:
  - the manner in which rights over the Plots are acquired and the relevant works are carried out including terms which protect NHs statutory undertaking and agreement that CA powers will not be exercised in relation to such land; and
  - the carrying out of works in the vicinity of the SRN to safeguard NH's statutory undertaking; and
- Confirmation that the Construction Environment Management Plan ("CEMP") will address NH's drainage infrastructure concerns and that it will be consulted in respect of any subsequent changes to the CEMP prior to approval by the Relevant Planning Authority.

(Note: In regard to the latter bullet point, this relates to a concern NH has regarding drainage infrastructure, where if open cut trenching is carried out without suitable mitigation or full awareness of where the infrastructure is located it could be damaged. NH consider this could result in a material risk to road users. As such NH requested the CEMP ensures that any existing outfalls from the M56 motorway will be maintained during the works to ensure the discharges from the SRN are not impeded and that the dDCO in its final version be amended so any changes to the CEMP are consulted on with them prior to it being agreed.)

8.7.397. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot nos. 5-01, 6-06 and 9-13; whilst permanent acquisition of subsurface is being sought in relation to plot nos. 2-03, 2-05, 2-09, 2-10, 2-14, 4-20, 5-02, 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, 7-05, 9-07, 9-09, 9-10 and 9-12.

8.7.398. In addition to the above, the above-mentioned documents also indicated temporary use of rights are being sought in relation to plot no. 2-06, whilst the permanent acquisition of rights are being sought in regard to Plot No. 6-07 and 9-04. Additionally, the BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of NH these new rights would apply to plot nos. 6-07 (related to Work No. 14A) and 9-04 (related to Work No. 22) for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose a restrictive covenant.

8.7.399. With regard to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (NH) these plot nos. are 2-02, 2-07, 5-03, 5-04, 9-08, 9-11 and 9-13. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:

- Temporary use as a construction working area and for access to facilitate construction.
- Temporary use as a construction access.
- Temporary use as a construction access and working area.

**ExA's response**

8.7.400. Despite both the Applicant and NH continuing to engage through-out the Examination, NH maintained its objection at the close of the Examination and its objection had not been withdrawn.

8.7.401. NH clearly set out its objections in regard to CA/TP in its 'Closing Submissions' submitted at DL8 [REP8-046]. It maintains its objections, as summarised above, and re-emphasised its concerns regarding:

- interference with the SRN;
  - plot nos. 5-06 and 7-05 regarding permanent CA of subsoil of operational highway land;
  - plots nos. 2-09, 2-10, 5-09, 9-07, 9-09, 9-10 and 9-12 regarding permanent CA of land beneath the local road network;
  - plots nos. 2-03, 2-05, 4-20, 5-01, 5-02, 5-05, 5-10, 5-12, 5-14, 5-15, 5-20, 5-22, 5-23, 6-02, 6-03, 6-04, 6-05, 6-06, and 9-04 regarding permanent acquisition of rights; and
  - the need for the inclusion of plot no. 6-07 regarding permanent CA of rights.
- serious detriment, including:
  - in relation to permanent CA of the subsurface of motorway and verges especially the size of the area the Applicant is looking to acquire in plot nos. 5-06 and 7-05 (17,025m<sup>2</sup>) and the serious impact it considers would occur to its ability to comply with its statutory licence obligations;
  - acquisition of land rights; and
  - TP; and
- PP and the Applicant's proposed drafting as opposed to NH's PP, as attached at Appendix 1 to its 'Closing Submissions' submitted at DL8 [REP8-046]. NH advised these PP remain 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.

8.7.402. In regard to NH's position that CA is intended to be a measure of last resort and its observations that the Proposed Development could be achieved without CA through the granting of a Street Works Licence

pursuant to s50 of the NRSWA, the Applicant's `...Comments on Submissions Received at DL5' submission [REP6-035], at Appendix A (Applicant's response to NH's submissions), it provides detailed responses refuting NH's position in that regard and seeks to provide reasoned arguments supporting its approach to this matter.

- 8.7.403. In terms of NH's closing submissions, the Applicant responded to these in its document 'Applicant's Response to the Rule 17 Request for Information' [REP9-012]. At Appendix 3 of that document entitled 'Applicants response to Q5, Applicant's response to NH [REP8-046]', the Applicant provides rebuttals to NH's Closing Submissions [REP8-046]. It maintains its position as set out in its Final Position Statement [REP8-037], as supported by the opinion of King's Counsel (KC) [REP8-038].
- 8.7.404. The Applicant points out NH has two capacities, as both landowner and as highway authority, and argues different considerations apply to each. It argues a distinction must be drawn between the operational highway and other land related to the SRN, which is not operational highway but ancillary and consequentially less sensitive.
- 8.7.405. In regard to NH's position that CA is intended to be a measure of last resort, once all efforts to negotiate have failed, as it considers the Proposed Development could be achieved without CA through the granting of a Street Works Licence pursuant to s50 of the NRSWA and that it argues this would result in the same end result, the Applicant is clear it does not accept NH's position in regard to this matter.
- 8.7.406. The Applicant provides detailed and well considered responses refuting NH's position on this matter in its `...Comments on Submissions Received at DL5' submission [REP6-035], at Appendix A (Applicant's response to NH's submissions). This document provides a comprehensive set of arguments refuting NH's position in regard to this matter and some of these are summarised below:
- In regard to the legal opinion submitted by NH at DL5 [REP5-051], the Applicant advises:
    - It "*...considers that the interpretation of the Act set out does not have proper regard to the considerable body of land law case law that street status has a vertical limit*" ([REP6-035] Appendix A (Applicant's response to NH's submissions) paragraph 2.3). It goes on to state "*To determine that any works under a street are still within the street for the purposes of NRSWA contravenes that long established principle*" (Ibid, paragraph 2.3).
    - Whilst not disputing the author of that opinion is an expert in highways law, nor seeking to challenge her "*...credentials, it noted whether the particular facts and circumstances of this case were put before her have not been explained.*" (Applicant's 'Final Position Statement' [REP8-037], paragraph 6.2). It states, "*There is no discussion of the particulars of this case in that opinion.*" (Ibid)

- the pipeline would be "...below the 'zone of influence' of street status, as per the consideration of the Supreme Court in *Thames Water Utilities Ltd v London Underground Ltd*, and accordingly is not 'in' the street." (Ibid, paragraph 6.1) and the "Counsel is... out of alignment with the determination of the Supreme Court which affirmed that highway (or street status) has a limit to the zone of influence of that highway." (Ibid, paragraph 6.2).
- Its position in this regard is consistent with other granted DCOs. (Ibid, paragraph 6.1). (Note: This point is highlighted further below).
- In addition to the points made above, the Applicant:
  - Points out, if NH's submission were correct (which it does not accept), it would also affect the status of works in highway managed by other highway authorities, who are not taking the same position. It also states the position being taken by NH is also contrary to that taken in made DCOs, including the Southampton to London Pipeline DCO where the installation of that pipeline, under the M25 motorway, was not shown as street works within the plans for that DCO ([REP6-035] Appendix A (Applicant's response to NH's submissions) paragraph 1.1). Indeed, the Applicant notes NH withdrew its objection to that DCO despite these works not being included in the street works schedule (Ibid, paragraph 2.9).

[Note: Both CWCC and FCC, acting as the Highway Authority for their jurisdictions, changed their positions after NH's submissions at DL5 to reflect NH's position in regard to this matter (ie the Proposed Development could be achieved without CA through the granting of a Street Works Licence pursuant to s50 of the NRSWA).

- Notes that NH's position in this case is inconsistent not only with made energy DCOs, but also with its own recent highways DCOs (Ibid, paragraph 2.15). It notes NH when promoting its own DCOs routinely includes the same or substantially similar provisions relating to streets and the application of NRSWA as those proposed by the Applicant in this DCO, and provided the following recent examples:
  - the A47 North Tuddenham to Easton Development Consent Order 2022, article 14.
  - the A47 Wansford to Sutton Development Consent Order 2023, article 11.
  - A417 Missing Link Development Consent Order 2022, article 12.
  - A428 Black Cat to Caxton Gibbet Development Consent Order 2022, article 11.
- Considers it was Parliament's intent to provide a streamlined consenting and compulsory purchase process for NSIPs/ through the PA2008 and it expressly intended that DCOs be able to include



as many other consents as possible for such developments and to disapply other legislation where the DCO can provide for the matter (Ibid, paragraph 2.12).

- Argues the position of NH is contrary to that fundamental objective for works under a DCO to then also be controlled under NRSWA in a manner which conflicts with the DCO approach. It states the NRSWA was designed to control and co-ordinate the exercise of statutory undertakers' works in the surface of streets where planning consent is not normally required, co-ordination is necessary to ensure that traffic is not inappropriately disrupted, and control of works is required to ensure that the highway is not left in an unacceptable or dangerous state. Those considerations do not apply to the facts in this case where there will be no closure to traffic of any part of NH's network, and the protection of the SRN is assured through the PP." (Ibid, paragraph 2.12).

- 8.7.407. The ExA notes that NH in its DL7 submission [REP7-316], corrects its earlier submission that suggested CA of the SRN subsurface was unnecessary due to the Applicant's ability to rely upon NRSWA. It advises that previous submission "...was based upon an incorrect understanding that the Applicant had a statutory right to lay apparatus beneath the highway (in the same way as a statutory undertaker) and so only required the street works authority to authorise such works (which it was assumed would be granted by the DCO). The Applicant is not a statutory undertaker and so does not benefit from a statutory right to lay apparatus beneath the highway without the landowner's consent." [REP7-316] (paragraph 3.4.3). That said NH comments in the light of that submission it notes "...as currently drafted the DCO would not provide the street works authority to authorise such works." (Ibid).
- 8.7.408. The ExA has reviewed and considered all of the evidence submitted by both parties regarding this matter and is not persuaded as to NH's arguments. Indeed, from the evidence submitted the ExA considers the Applicant has made a competent and compelling case that the relevant element of the development in the subsurface beneath both the SRN and local road network would not be street works, especially in the light of the case law highlighted and NH changing its position in regard to the Applicant not having statutory right to lay apparatus beneath the highway (in the same way as a statutory undertaker).
- 8.7.409. The ExA noted NH's comment about how it has approached this matter in the past being different from how it approaches it now. However, this does not appear to be backed up by the evidence. Indeed, the DCO cases highlighted above, by the Applicant, clearly show NH ran contrary arguments in DCOs made as recently as 2022/ 2023, as well as contrary to recommendations made by other ExAs and accepted the SoS when those DCOs were made. As such, based on the evidence before it, the ExA is not persuaded in regard to NH's position in regard to this matter and considers the Applicant's approach, as contained in the dDCO to be appropriate.

- 8.7.410. Turning to plot nos. 5-06 and 7-05 the Applicant notes NH continues to submit that acquisition of the subsoil of these plots (under the M53 and M56 motorways) is detrimental to its undertaking purely by virtue of loss of ownership [REP8-046] (paragraph 2.2). However, it points out that in the opinion sought by it from KC it was considered NH had failed to show that the purchase of the CPO Land would result in serious, or indeed material, detriment to its ability to carry on its statutory undertaking. As such the Applicant argues serious detriment in relation to the CA of these plot nos. does not occur.
- 8.7.411. In terms of Plot nos. 5-12 and 6-03 the Applicant's Final Position Statement [REP8-037] (paragraph 2.14) notes plots 5-12 and 6-03 have been added to the Applicant's draft PP but NH is not recorded as having any interest in plot 6-03 in the Book of Reference [REP7-025], as listed in the completed SoCG with NH [REP7-263] (Paragraph 3.1.3) as awaiting confirmation from NH as to any interest they have.
- 8.7.412. With regard to CA powers and NH's argument CA powers should not be granted because other bodies are willing to enter into voluntary agreements, the Applicant states this argument is unsustainable, given that those voluntary agreements are not yet concluded, and NH has no control over those.
- 8.7.413. In terms of NH position that CA powers are not justified because landowner consents will be granted ([REP8-046] paragraphs 2.5, 2.8, 3.15), the Applicant notes NH have also stated it is "*prepared to grant a lease over a corridor within the subsurface estate, subject to the NH PP.*" (Paragraph 3.16) and argues such a position demonstrates why the Applicant needs the powers of CA that are being sought.
- 8.7.414. Regarding the matter of CA/ TP, the Applicant points out the Proposed Development is a NSIP with considerable policy support and an urgent need case for delivery. It considers that without CA powers NH would have the power to prevent the delivery of this NSIP, or indeed any NSIP (by declining to grant the option for lease) based on a misconceived interpretation of the powers of the DCO, and a desire to impose disproportionate and needlessly expensive provisions on the Applicant.
- 8.7.415. Regarding the matter of serious detriment, the Applicant argues the figures given for acquisition of land in plots 5-06 and 7-05 by NH in its DL8 submission [REP8-046] (paragraph 3.7 and 3.15) are incorrect. The Applicant highlights the corridor over which rights are sought is to allow siting of the pipeline corridor within the 100m (having regard to, for example, in the case of the SRN ground conditions and the safest crossing points) and as such it is not seeking to acquire the full 100m width, but rather a 24.4m corridor within that. The Applicant stresses this is entirely normal practice for linear projects where the DCO Limits are wider than the final land take, as this allows necessary flexibility for detailed design.
- 8.7.416. The Applicant points out this position is clearly explained in the SoR [REP4-022] and repeats a corridor of only 24.4m will be taken within

each plot. It argues NH’s submission that the land take is unjustified ([REP8-046] paragraph 3.15) is based on the figure of the whole plot size and not the final corridor over which powers would be exercised. Furthermore, the Applicant advises NH has repeatedly stressed that the crossing works must be carried out safely and that part of the reason for the corridor width is to allow further ground investigation to be used to determine the most appropriate crossing point, including consideration of safety. As such, the Applicant considers NH’s position in this regard to be surprising as NH appear to be objecting to the width of plot, which would allow for that further work to be undertaken.

8.7.417. Additionally, the Applicant argues that rather than the land take figure of 17,025m<sup>2</sup>, as suggested by NH, which is the entire combined size of plots 5-06 and 7-05 a more realistic combined subsurface land take figure would be approximately 2,315m<sup>2</sup>, just under 14% of the area asserted by NH.

8.7.418. This above point is illustrated in the ‘Applicant’s Response to the Rule 17 Request for Information’ [REP9-012], at Appendix 3 ‘Applicants response to Q5, Applicant’s response to NH [REP8-046]’ where it provides a graphic, which for the sake of locating it, the ExA has set out below:



Plot	5-06	7-05
Motorway	M56	M53
Plot Area	≈ 9,800 m <sup>2</sup>	≈ 7,250 m <sup>2</sup>
Plot Width	≈ 150 m	≈ 170 m
Plot Length	≈ 53 m	≈ 42 m
Subsurface land take for 24.4m easement	≈ 1,290 m <sup>2</sup>	≈ 1,025 m <sup>2</sup>
<b>Key:</b> <ul style="list-style-type: none"> <li>• Plot in pink</li> <li>• Order limits in red</li> <li>• Indicative pipeline alignment in green</li> </ul>		

Figure 2 – Indicative subsurface land take figures and approximate dimensions for indicative corridors. ‘Applicant’s Response to the Rule 17 Request for Information’ [REP9-012], at Appendix 3 ‘Applicants response to Q5, Applicant’s response to NH [REP8-046]’.

8.7.419. In terms of NH’s concern regarding the Applicant not agreeing to safety critical standards, the ExA notes the Applicant response where it states it “...entirely refutes and strongly objects to NH’s submission [REP8-046] (paragraph 3.9). The Applicant points to the standard quoted by NH,

*being the 'Design Manual for Roads and Bridges (DMRB) CD622 – Managing Geotechnical Risk', which it confirms it agrees and has always agreed applies (Applicant's Final Position Statement [REP8-037] paragraphs 7.6 and 7.7). It states this has been documented within the dSoCG with NH since DL1 [REP1-028]".*

- 8.7.420. The Applicant argues no evidence has, or can be produced, that it is seeking to bypass any safety standard. It also argues it has been consistent throughout the Examination in agreeing that DMRB CD622 would apply. It advises it considers the 'litigation risk' point made by NH ([REP8-046] paragraph 3.10) is unconvincing and highlights the KC opinion [REP8-038] (paragraphs 43 and 44) which support of its position. The Applicant notes, it is extremely common for subsoil under public highway not to be owned by highway authorities generally and yet no example of this trespass risk arising in practice has been cited by NH in this regard.
- 8.7.421. Overall, in terms of the matter of serious detriment, the KC's opinion submitted by the Applicant at DL8 [REP8-038] concludes: "*...NHs has failed to show that the purchase of the CPO Land would result in serious, or indeed material, detriment to its ability to carry on its statutory undertaking.*" (paragraph 55).
- 8.7.422. In terms of 'significant administrative burden' as claimed by NH ([REP8-046] paragraph 3.11), the Applicant considers this argument to attract little or no weight, as maintaining records of what is owned is a 'business as usual' activity for all major landowners. It argues where a lease or easement is granted, a record would need to be maintained of that and there is no practical difference between maintaining that record and maintaining a record of sub-soil ownership.
- 8.7.423. The Applicant notes that NH's DL8 submission [REP8-046], at para 3.12, refers to how the permanent CA of the entire subsurface estate in plots 5-06 and 7-05 would seriously impacting NH's ability to comply with its statutory licence obligations. However, the Applicant argues it is not seeking CA of the whole plot and in terms of NH's licence obligations the Applicant notes it is not explained how these licence obligations would be impacted and as such is to only an assertion without evidence.
- 8.7.424. In terms of the licence section quoted in the Applicant DL8 submission [REP8-046] (paragraph 3.13) the Applicant notes the wording is clearly a restriction on the capacity in which NH may hold land, not a requirement that they must hold all of the land interests in the SRN. It argues NH's position that it must own all of the sub-soil is untenable given the reality that much of the sub-soil under highways is in unknown ownership and highlights s263 (Vesting of highways maintainable at public expense) of the Highways Act 1980 stating that section "*...exists precisely because highways authorities generally do not own the subsoil of highways.*"
- 8.7.425. In terms of NH's argument regarding consultation with the SoS for Transport, the Applicant does not consider this to be supported by the quote from the licence provided. It considers the duty to manage NH's

estate involves dealing with new utility crossings on a daily basis and whilst this is a matter for the SoS (as decision maker on this application) as to whom the SoS may decide to consult, the Applicant does not see that there is anything exceptional about this case to warrant such consultation, nor what it could achieve.

8.7.426. In this regard the Applicant argues:

- It has no choice but to seek subsurface freehold CA, as it is not legally possible to create a new lease through the DCO (or any other Compulsory Purchase Order) process (See SoR [REP7-021]). The Applicant needs a lease because of its (uncontested) legal limitations as a non-statutory undertaker promoter and other reasons.
- There are numerous exceptions in relation to the SRN (ie where the subsurface is already not owned by NH) and a vast number of exceptions for other highway authorities, that no point of legal principle arises.
- Despite the submissions by NH, no novel point of interpretation of the statutory licence arises.

8.7.427. Irrespective of the above, the Applicant states it "*...hopes that the issue will become moot in any event through the grant of an option for a lease for the pipeline, which is under active negotiation....*"

8.7.428. Turning to the matter of PP, the ExA notes the Appendix 3 of the 'Applicant's Response to the Rule 17 Request for Information' [REP9-012], which set out its '...response to Q5, Applicant's response to NH [REP8-046]'. Paragraph 1.1.21. of that document refers to the Yorkshire Green DCO Examination and NH's assertion that "*The Applicant in that case, National Grid, accepted NH's position and agreed to NH's full set of PP.*" However, the Applicant argues this is directly contradicted by the final (DL8) submission made to that Examination by NH.

8.7.429. The Applicant points out, in that submission, two points were recorded as remaining outstanding between the parties, including CA of land within the highway network. As such, the Applicant argues, in the absence of further evidence, that alters the public position, no weight can be given to NH's submission into this Examination that its PP related to the Yorkshire Green DCO Examination were accepted in full, as it is not consistent with or demonstrated by the submissions made in that Examination.

8.7.430. In terms of NH's assertions regarding 'unknown works', the Applicant highlights its KC opinion [REP8-038], submitted by it at DL8 (see paragraphs 25 to 32). In the light of this submission and the Applicant's previous submissions in this regard, it states it does not accept NH's position is reasonable and proportionate, as is claimed, and maintains its position that if its PP are included that no serious detriment will arise pursuant to s127 of the PA2008 in relation to NH's undertaking.

8.7.431. In the ExA's opinion this mounts a persuasive argument against NH's concern that as currently drafted the DCO would authorise 'unknown works' not currently before the Examination. The KC's opinion [REP8-

038] refers to this matter as the 'Sweeper Issue' and concluded "...ExA can be content that, if made, the DCO would not authorise 'unknown works' to the SRN as alleged by NH's. Indeed, the KC considers the position of NH to be untenable in this regard." [REP8-038] (paragraph 33).

8.7.432. Finally, in terms of the Applicant's position of NH's PP provided at DL7 [REP7-326] (Appendix 1) its KC's opinion [REP8-038] on the matter of "Whether the inclusion of the full extent of the NH Provisions in the DCO, as required by NH, is justified" concluded "...the extent of provisions which NH is seeking to require through its insistence on inclusion of the NH Provisions is [not] justified. Some at least of the provisions which it is seeking over and above what has already been offered in the Applicant Provisions appear to be superfluous."

8.7.433. As such the Applicant maintains its argument set out in its '...Response to the Rule 17 Request for Information' [REP9-012] (Appendix 3 'Applicants response to Q5, Applicant's response to NH [REP8-046]') that "...the draft PP submitted by it [the Applicant] adequately protect NH's statutory undertaking and that the version sought by NH is unjustified and disproportionate in extent." ([REP9-012] (Appendix 3, Paragraph 1.1.1)).

8.7.434. Having considered all the evidence entered into the Examination regarding NH's objections to the granting of CA/ TP powers, including but not limited to the:

- Opinion of Ruth A Stockley of Kings Chambers in the matter of Regulation of Street Works in SRN [REP5-051].
- KC's Opinion submitted by the Applicant in the matter of an application for a DCO in respect of the Hynet CO<sub>2</sub> Pipeline project (referred to the Applicant as opinion on NH submissions) [REP9-012] at Appendix 3 'Applicants response to Q5, Applicant's response to NH [REP8-046]'.  
[REP8-046]'
- Details set out in the Land Plans [CR3-003] and BoR [REP7-025],

the ExA considers the submissions of the Applicant to be cogent and persuasive. However, in contrast, with the exception of the opinion of Ruth A Stockley of Kings Chambers, the ExA finds the submissions of NH to be exaggerated and unconvincing, including the arguments put forward in its closing submission [REP8-046].

8.7.435. In relation to the CA of SU land, the ExA is satisfied from the evidence submitted that the land in question has been acquired by SU for the purposes of its undertaking. Furthermore, the ExA is conscious of the considerable evidence provided by both parties in relation to serious detriment to the carrying on of NH's undertaking. However, the ExA in consideration of all of the evidence entered into the Examination is not persuaded serious detriment to the carrying on of NH's undertaking will occur.

8.7.436. Indeed, in reaching this position the ExA finds the Applicant's evidence that serious detriment would not occur to be well reasoned and persuasive, especially the:

- KC's Opinion, submitted by the Applicant, "In the matter of an application for a DCO in respect of the Hynet CO<sub>2</sub> Pipeline project" (referred to by the Applicant as "KC's opinion on NH's submissions"); and
- 'Applicant's Response to the Rule 17 Request for Information' [REP9-012], which set out its '...response to Q5, Applicant's response to NH [REP8-046]' at Appendix 3 of that document.

8.7.437. As such, the ExA is satisfied that the CA/ TP powers sought over the plots nos. identified above are required to facilitate and/ or are incidental to the Proposed Development. It is therefore satisfied that the powers sought meet the conditions set out in s122(2) of the PA2008.

8.7.438. In terms of PP, the ExA notes NH considers "*...it has been necessary to retain all NH's standard provisions to ensure that appropriate protection is in place if the Applicant chooses to exercise those powers, if granted.*" It sets out this is due to "*...wide powers... being sought by the Applicant in the DCO which could result in 'unknown' highway works being brought forward under the DCO.*"

8.7.439. Having reviewed both versions of the PP (the Applicant's current versions of the dDCO) and NH's PP, attached at Appendix 1 of its closing statement [REP8-046]), and having reflected on the position of both parties, as set out in submissions entered into the Examination on the matter, including the KC opinion submitted by the Applicant and DL7 [REP8-038], the ExA is not persuaded in regard to NH's concerns. Indeed, the ExA considers the Applicant's PPs, which are included in the rDCO at Appendix D of this report, would afford NH an appropriate level of protection in terms of its statutory undertaking, land and any apparatus and ensure the Proposed Development would not result in serious detriment to the carrying on of its undertaking.

8.7.440. In terms of whether there is a compelling case in the public interest for the land to be acquired compulsorily, the ExA notes the considerable policy support and an urgent need case for delivery referred to by the Applicant above. It also considers the Proposed Development would provide public benefits by:

- meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
- the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.

8.7.441. On balance, the ExA is satisfied that the inclusion of powers in respect of:

- CA in relation to SU land, land has been acquired by NH for the purposes of their undertaking (s127(1)) and the nature and situation of the land are such that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking. (s127(3));

- CA of a right over statutory undertakers' land, by the creation of a new right over land in terms of the nature and situation of the land are such that the right can be purchased without serious detriment to the carrying on of the undertaking (s127(6)); and
- the extinguishment of the relevant right, or the removal of the relevant apparatus is necessary for the purpose of carrying out the development to which the order relates (s138.(4)).

8.7.442. Such powers would be necessary for the purpose of carrying out the development and as such, the ExA considers the tests set out in s127 and s138 of the PA2008 are met.

8.7.443. As such, the ExA also considers the public benefits that would result from this Proposed Development outweighs any loss or detriment that may result from the CA of land and rights. Accordingly, it considers there is a compelling case in the public interest for CA powers to be included in respect of the identified plots and that the test set out in s122(3) is also met.

### **Local Authorities in their roles as the local highway authorities**

8.7.444. Both CWCC and FCC made comments on CA/ TP. CWCC made its comments in it RR [RR-012] and WR [REP1-061]; whilst FCC made its comments in RRs [RR-034] and [RR-035]. In terms of CA/ TP:

- CWCC made observations in these documents concerning limited contact with the Applicant but advised it would review its position and keep the ExA updated. It raised questions in regard to permanent works in areas of proposed TP and reserved its position in regard to PP.
- FCC sought general clarification around various issues including project programme timetable (including method of acquisition) and potential effects on its land and retained land. It also mentioned potential impacts on minerals safeguarding, as well as concerns regarding proposed wording and appropriateness of provisions within the dDCO, including the principal powers.

8.7.445. Irrespective of the above, in their roles as Highway Authority for their respective jurisdiction, both CWCC and FCC positions changed in the light of NH's objection in regarding CA/ TP, as set out above. The details of their objections are summarised below:

- CWCC raised objection to CA/ TP in its submission submitted at DL7 (Tuesday 5 September 2023) [REP7-306] advising it "*...fundamentally supports the legal opinion given by Ruth Stockley dated 4 July 2023 to NH [REP5-051] on the application of the NRSWA*" and it "*...agrees with NH that the advice provided by Ruth Stockley is very reliable, accurate and is the correct application of the NRSWA in a DCO context.*" In addition CWCC:
  - reiterated the objections raised by NH, which are not repeated here as they are summarised above in the section above related to NH and highlights, what it considered to be, an anomaly within the dDCO at Article 12 where it alleges it is defective in the light of the NRSWA applying.



- Advises it has not been able to agree PP, in part due to the Applicant not providing a list of highways affected by the DCO and the extraordinary traffic thereon. However, it states it "...has provided the Applicant with an acceptable set of PP for the protection of the local highway authorities" and urges the ExA to include its preferred version in the DCO.
- FCC raised objection to CA/ TP in its submission submitted at DL8 (Tuesday 12 September 2023) [REP8-044]) advising in the light of NH's DL5 submissions (REP5-050) and (REP5-051), the Applicant's comments on submissions received at DL5 (REP6-035), ISH3 ([EV-028] to [EV-030]) and the representations made by CWCC ([REP7-299], [REP7-300], [REP7-301] and [REP7-306]) it agrees with the stance taken by both NH and CWCC in this regard.

8.7.446. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of:

- Land is being sought in relation to plot nos.
  - CWCC: 6-01; and
  - FCC: 17-03, 17-04, 17-43, 17-44, 19-04a, 19-04d, 19-13, 22-10, 25-05 and 25-10.
- Subsurface is being sought in relation to plot nos.
  - CWCC: 2-08, 2-09, 2-10, 2-13, 3-13, 3-14, 3-15, 4-09, 4-10, 4-17, 4-18, 4-19, 5-09, 5-14, 5-20, 5-22, 5-23, 6-14, 6-15, 6-16, 6-17, 6-18, 6-19, 6-22, 6-23, 6-24, 6-25, 6-26, 7-01, 7-05, 7-08, 8-07, 8-11, 9-07, 9-09, 9-10, 9-12, 10-01, 10-04, 10-06, 10-07, 10-11, 10-12, 10-16, 11-06, 11-14 and 12-05; and
  - FCC: 12-18, 12-19, 13-12, 14-04, 14-08, 15-03, 15-04, 15-11, 15-13, 16-10, 16-12, 16-13, 16-14, 16-15, 16-18, 16-19, 16-20, 16-21, 16-23, 16-24, 16-25, 16-26, 16-27, 17-01, 17-06, 17-07, 17-08, 17-12, 17-13, 17-24, 17-25, 17-39, 17-40, 17-42, 18-02, 18-10, 18-11, 18-14, 18-18, 18-19, 18-20, 18-21, 18-24, 18-26, 18-27, 18-32, 19-02, 19-03, 19-04, 19-11, 19-12, 20-03, 20-04, 20-05, 20-06, 20-18, 20-19, 20-21, 20-27, 20-29, 21-02, 21-04, 21-06, 22-01, 22-07, 22-08 and 22-09.
- Rights is being sought in relation to plot no.
  - CWCC: 1-06c, 1a-01, 1a-02, 1a-04, 2-04a, 3-05, 6-09, 7-02b and 12-06; and
  - FCC: 13-06, 13-10, 13-11, 14-11, 15-14, 17-17 and 17-18.

8.7.447. In addition, the above-mentioned documents, as relevant to FCC, indicated temporary use of rights are being sought in relation to plot nos. 13-13, 13-15, 13-17, 13-18, 14-02 and 14-03. Neither the BOR [REP7-025] or Land Plans [CR3-003] indicate any temporary use of rights in relation to CWCC.

8.7.448. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land

in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of:

- CWCC these new rights would apply to plot nos. 1-06c, 1a-01, 1a-02, 1a-04, 2-04a, 3-05, 6-09, 7-02b, 9-07 and 12-06; and
- FCC these new rights would apply to plot nos. 13-06, 13-10, 13-11, 14-11, 15-14, 17-17 and 17-18.

8.7.449. In relation to both CWCC and FCC these new rights would be rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose restrictive covenants.

8.7.450. With regard to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of:

- CWCC these plot nos. are 2-04, 2-11, 3-01, 4-03, 4-04, 5-21, 5-24, 5-25, 5-26, 6-21, 7-02a, 8-08, 8-14, 9-08, 9-11, 10-04a, 10-15, 10-17 and 11-01. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:
  - Temporary use as a construction access.
  - Temporary use as a construction access including visibility splay.
  - Temporary use for access and peat storage.
  - Temporary use as a construction working area.
  - Temporary use as a construction access and working area.
- FCC these plot nos. are 12-16, 12-17, 13-19, 14-23, 14-24, 14-25, 14-27, 16-06a, 16-08, 17-10, 17-11, 17-34, 18-01, 18-13, 18-16, 18-17, 19-04c, 20-10a, 20-16, 20-17, 20-19b, 20-20, 22-02, 22-04, 25-08, 25-09, 28-02 and 29-01. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:
  - Temporary use as a construction access.
  - Temporary use as a construction access and working area.
  - Temporary use as a construction access and working area, and for diversion of public right of way and watercourse.
  - Temporary use as a working area.
  - Temporary use as a construction compound, working area and access.
  - Temporary use as a construction access including visibility splay.
  - Temporary use as a construction compound and working area.
  - Temporary use as a working area and access.
  - Temporary use for and to construct an access.

### **ExA's Response**

8.7.451. The Applicant continued to liaise with both CWCC and FCC throughout the Examination. On the whole the parties appeared to be progressing

with many matters being clarified or resolved (ie temporary possession of land and permanent works being resolved (CWCC [REP5-031] at paragraph 2.3.38) and PP in favour of drainage authorities being agreed (CWCC [REP8-041] and FCC [REP8-044])).

- 8.7.452. CWCC in its DL7 submission [REP7-299] advised, in relation to CA/ TP, updated Heads of Terms had been received from the Applicant and the Council had received responses to queries. It also advised "*The Council will continue to progress negotiations with the Applicant.*" At DL8 CWCC's submission [REP8-041] advised there was no substantive update on the matter of CA/ TP.
- 8.7.453. FCC in its DL8 submission [REP8-044] also provided an update regarding CA/ TP and confirmed, it was "*...in receipt of Heads of Terms... and negotiations are ongoing.*"
- 8.7.454. Irrespective of these positive signs, as set out above, both CWCC [REP7-306] and FCC [REP8-044], in their roles as local highway authority for their respective jurisdictions, raised objections in regard to CA/ TP. These objections were primarily based on NH's objections that the Applicant's case for CA has not been satisfactorily made out. NH argued this was due to the same end result being achievable pursuant to s50 of the NRSWA, with it pointing out that CA is intended to be a measure of last resort once all efforts to negotiate have failed.
- 8.7.455. It should be noted that the above is just one of NH's objections in regard to this matter, however, a summary of NH's objections is set out in the NH section above. They are not repeated here with a view to avoiding repetition.
- 8.7.456. The Applicant has not responded directly to FCC's DL8 submission [REP8-044], in regard to its change of stance agreeing with NH's and CWCC positions on this matter (See NH's submissions [REP5-050] and [REP5-051] and CWCC's submissions [REP7-299] and [REP7-306]). The ExA notes however, a detailed response to the objections from NH and CWCC have been provided in the:
- Applicant's Final Position Statement [REP8-037]; and
  - 'Applicant's Response to the Rule 17 Request for Information' [REP9-012], at Appendix 3 'Applicants response to Q5, Applicant's response to NH [REP8-046]' and Appendix 7 (sic) 'Applicants response to Q5, Applicant's response to CWCC [REP8-041a]'.
- 8.7.457. It should be noted the ExA considers the above-mentioned responses apply equally to FCC's DL8 submission [REP8-044], as its objection, in its role as local highway authority, is substantially identical to that of CWCC and in turn NH.
- 8.7.458. In response to the objections raised by CWCC, the 'Applicant's final position statement' [REP8-037] responds noting "*...CWCC have, for the first time, adopted the NH's interpretation in their DL7 submission [REP7-306]. The only reason given for this is that the author of the legal opinion provided by NH's [REP5-051] is an expert in highways law.*"

Indeed, the Applicant has provided a substantial rebuttal of NH's objections, which are equally applicable to CWCC's change in position. To avoid duplication these are not repeated here but can be found above (See paragraphs 8.7.404 to 8.7.406 (inclusive)).

8.7.459. In terms of responses specific to CWCC objections, summarised above, the Applicant refutes the allegation CWCC has repeatedly asked for a list of affected highways ('Applicant's Response to the Rule 17 Request for Information' [REP9-012], at Appendix 7 (sic) 'Applicants response to Q5, Applicant's response to CWCC [REP8-041a]' paragraphs 1.1 and 1.1.6). Indeed, it advises "*...the affected highways are listed in the application...*" and states "*...the list was developed in partnership with CWCC...*" (Ibid, paragraph 1.1). Indeed, it provides a comprehensive list of documents where it considers that information can be located in the application documentation, as well as details of construction traffic routes and areas of agreement set in the SoCG competed with CWCC. ('Applicant's Response to the Rule 17 Request for Information' [REP9-012], at Appendix 7 (sic) 'Applicants response to Q5, Applicant's response to CWCC [REP8-041a], paragraph 1.1.2 to 1.1.4 (inclusive)).

8.7.460. The Applicant notes:

- CWCC has submitted that the NRSWA applies to all works within its highways and that this "*...is CWCC's basis for rejecting the defects position put forward by the Applicant. However, it is also fundamentally inconsistent on this point by arguing both that NRSWA applies so the defects position should follow that statute and that it needs protection on highway condition surveys, which is not in line with the statutory position.*" ('Applicant's Response to the Rule 17 Request for Information' [REP9-012], at Appendix 7 (sic) 'Applicants response to Q5, Applicant's response to CWCC [REP8-041a], paragraph 1.1.7).
- The highway authority has a power under the Highway Act 1980 s59 to recover the costs of repairing extraordinary damage to highways. PP were proposed in part to prevent the need to rely on that power by defining sensitive streets with a risk of such damage occurring for monitoring during use by construction traffic. (Ibid, paragraph 1.1.8).
- There is no justification for imposing the PP in favour of the highway authority in the form sought by CWCC, as their own submission states that statutory position should be relied upon. (Ibid, paragraph 1.1.9).

8.7.461. In terms of CWCC's contention that Article 12 of the dDCO is defective, the Applicant has provided a rebuttal in its Final Position Statement [REP8-037], where in summary it considers:

- CWCC are mis-interpreting that article and point out the article follows the wording set out in a considerable number of granted DCOs that were approved by various SoSs who clearly, repeatedly, did not consider it to be confusing.
- CWCC's assertion that these decisions and granted DCOs are defective is not supported by any reasoning within the CWCC submission and is simply incorrect.

- The powers of the dDCO allow certain provisions of NRSWA to apply to activities in streets beyond what falls within the definition of 'street works' under NRSWA, including restricting use rather than physical works, with key sections being:
  - Article 12(1), which provides:
    - that the NRSWA provisions listed in paragraph (2) apply "whether or not the carrying out of the works or the stopping up, alteration or diversion constitutes street works within the meaning of that Act";
    - that the sections of NRSWA listed in paragraph (2) are applied (with necessary modifications) to the exercise of powers which would not otherwise fall within the definition of street works under NRSWA.
  - Article 12(2), which lists the provisions of NRSWA which are applied to that the paragraph (1) activities, and thus acting to extend the scope of these sections from that under NRSWA to include other activities which would affect the use of streets and to which it is reasonable that the provisions (especially notification) apply.
  - Article 12(3), which amends the application of s55 of NRSWA to reflect the DCO context and amended scope set out in paragraph (1).
  - Article 12(4), which disapplies the powers of NRSWA which are fundamentally incompatible with a DCO from 'street works' under the DCO.

- 8.7.462. The Applicant points out its Explanatory Memorandum (EM) [REP7-017], as related to it APC (the TCV) of the dDCO, at paragraph 4.58 explains the above and provides an example. (This is also set out at the same paragraph in the EM related to the EPBV of the dDCO [REP7-018]).
- 8.7.463. On the basis of points made above, the Applicant argues not only is article 12 of the dDCO perfectly sensible and intelligible, but also its effect is to protect highway authorities.
- 8.7.464. This protection is done by extending the scope of NRSWA to activities empowered under the DCO, which would not normally be covered by that Act in order to ensure that appropriate notice and control of interference with highways is secured in the DCO.
- 8.7.465. Neither CWCC nor FCC made a submission at DL9. Irrespective of this fact, in the light of CWCC & FCC reiterating NH's objection, as relevant to their own undertakings as local highway authority and bearing in mind the additional concerns raised by them, as summarised above, the ExA does not consider these concerns add anything to the existing arguments, as already set out in the NH section above.
- 8.7.466. Additionally, the ExA does not consider the objections raised by CWCC/ FCC, in relation to their roles of as SUs for the local highway networks within their respective jurisdictions, including the addition concerns summarised above, alters the considerations or findings related to NH's objections which, in the ExA's opinion, are equally applicable to

CWCC and FCC objections. Those considerations and findings are not repeated here with a view to avoid duplication. However, they can be found in paragraphs 8.7.400 to 8.7.443 (Inclusive) above.

- 8.7.467. Indeed, the ExA considers the Applicant has provided clear and reasoned arguments which counter the concerns raised and as such it is not persuaded the concerns raised by the local highways authorities are reasonable or justified.
- 8.7.468. Furthermore, in terms of concerns raised in regard to PP by CWCC and FCC, again the ExA's considerations and findings, as set out in the NH section above, in relation to PP are also considered to be equally applicable to CWCC's and FCC's objections regarding this matter. Again these considerations and findings are not repeated here, for the same reason expressed above, but those considerations/ findings can be found in same paragraph numbers identified in paragraph 8.7.466 above.
- 8.7.469. Overall, in the light of those considerations and findings, in relation to the matter of CA of land, including the subsurface of land, the ExA is satisfied from the evidence submitted that the land in question has been acquired by these SUs for the purposes of its undertaking. Furthermore, the ExA is conscious of the considerable evidence provided by both parties in relation to serious detriment to the carrying on of CWCC's and FCC's undertaking. However, the ExA in consideration of all of the evidence entered into the Examination is not persuaded that serious detriment to the carrying on of CWCC's or FCC's undertaking will occur.
- 8.7.470. Indeed, in reaching this position the ExA finds the Applicant's evidence that serious detriment would not occur to be well reasoned and persuasive, especially the:
- Applicant's Final Position Statement [REP8-037]; and
  - KC's Opinion [REP8-038], submitted by the Applicant, "In the matter of an application for a DCO in respect of the Hynet CO<sub>2</sub> Pipeline project" (referred to by the Applicant as "KC's opinion on NH's submissions"); and
  - 'Applicant's Response to the Rule 17 Request for Information' [REP9-012], which set out its '...response to Q5, Applicant's response to CWCC [REP8-041a]' at Appendix 7 (sic) of that document.
- 8.7.471. As such, the ExA is satisfied that the CA/ TP powers sought over the plots nos. identified above are required to facilitate and/ or are incidental to the Proposed Development. It is therefore satisfied that the powers sought meet the conditions set out in s122(2) of the PA2008.
- 8.7.472. In terms of PP, the ExA notes CWCC and FCC are repeating NH's comment about it being "*...necessary to retain all ...standard provisions to ensure that appropriate protection is in place if the Applicant chooses to exercise those powers, if granted.*" They argue that this is due to "*...wide powers... being sought by the Applicant in the DCO which could result in 'unknown' highway works being brought forward under the DCO.*" Furthermore, the additional concerns related to PP raised by CWCC and

FCC are noted. However, the Applicant has submitted convincing arguments against the use of such PP.

8.7.473. Having reviewed both versions of the PP (the Applicant's current versions of the dDCO) and the PP promoted by CWCC/ FCC, as submitted at DL7 [REP7-300]), and having reflected on the position of all parties relevant to this matter, as set out in submissions entered into the Examination, including:

- the Applicant's Final Position Statement [REP8-037], which contains the Applicant's rebuttal concerning CWCC's observations concerning Article 12 of the dDCO;
- KC's opinion submitted by the Applicant at DL7 [REP8-038] and
- the Applicant's Response to the Rule 17 Request for Information' [REP9-012], Appendix 7 (sic), which set out its '...response to Q5, Applicant's response to CWCC [REP8-041a]',

the ExA is not persuaded in regard to the concerns of these SUs. Indeed, the ExA considers the Applicant's PPs, which are included in the rDCO at Appendix D of this report, would afford CWCC and FCC (acting as the local highway authority within their respective jurisdictions), an appropriate level of protection in terms of their statutory undertaking, land and any apparatus and ensure the Proposed Development would not result in serious detriment to the carrying on of its undertaking.

8.7.474. In terms of whether there is a compelling case in the public interest for the land to be acquired compulsorily, the ExA notes the considerable policy support and an urgent need case for delivery referred to by the Applicant above. It also considers the Proposed Development would provide public benefits by:

- meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
- the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.

8.7.475. On balance, the ExA is satisfied that the inclusion of powers in respect of:

- CA in relation to SU land, land has been acquired by the SU (CWCC and FCC acting as local highway authority) for the purposes of their undertaking (s127(1)) and the nature and situation of the land are such that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking. (s127(3));
- CA of a right over statutory undertakers' land, by the creation of a new right over land in terms of the nature and situation of the land are such that the right can be purchased without serious detriment to the carrying on of the undertaking (s127(6)); and

- the extinguishment of the relevant right, or the removal of the relevant apparatus is necessary for the purpose of carrying out the development to which the order relates (s138.(4)).

8.7.476. Such powers would be necessary for the purpose of carrying out the development and as such, the ExA considers the tests set out in s127 and s138 of the PA2008 are met.

8.7.477. As such, the ExA also considers the public benefits that would result from this Proposed Development outweighs any loss or detriment that may result from the CA of land and rights. Accordingly, it considers there is a compelling case in the public interest for CA powers to be included in respect of the identified plots and that the test set out in s122(3) is also met.

### **Natural Resources Wales**

8.7.478. NRW, raised concerns regarding CA/ TP in its RR [RR-066] and WR [REP1-071] related to potential implications of the 24.4m permanent rights corridor and how this could affect its powers in terms of undertaking maintenance works or flood defence improvements works on assets within the corridor. It considered this could have implications for it, particularly where the pipeline runs under/ close to flood defence assets, such as the Northern and Hawarden Embankments.

8.7.479. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of subsurface is being sought in relation to plot nos. 13-07, 13-08, 13-12, 14-04, 14-05, 14-06, 14-07, 14-08, 15-03, 16-10, 16-14, and 16-16.

8.7.480. In addition, the above-mentioned documents also indicated temporary use of rights are being sought in relation to Plot No. 13-13, 13-17 and 16-01; whilst the permanent acquisition of rights are being sought in regard to Plot No. 12-21, 13-01, 13-02, 13-03, 13-04, 13-05, 13-06, 13-10, 13-11, 14-14a and 14-20.

8.7.481. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of NRW these new rights would apply to plot nos. 12-21, 13-01, 13-02, 13-03, 13-04, 13-05, 13-06, 13-10, 13-11, 14-14a, 14-20 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose a restrictive covenant.

8.7.482. With regard to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (NRW) these plot nos. are 14-14, 14-26, 16-06a, 16-08 and 16-17. As set out by the Applicant



in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:

- Temporary use as a construction compound and working area.
- Temporary use as a construction access and working area.
- Temporary use as a construction access and working area, and for diversion of a public right of way and watercourse.
- Temporary use as a working area.

### **ExA's Response**

- 8.7.483. NRW's concerns regarding CA/ TP, as set out above, centred around the potential implications of the 24.4m permanent rights corridor and how this could affect its powers in terms of undertaking maintenance works or flood defence improvements works on assets within the corridor. In its WR related to CR1 [AS-074] NRW made reference to these concerns, noting CR1 Change 13 did not remove them. However, it also advised it would *"...continue to engage with the Applicant regarding this matter with a view to hopefully agree matters and record such agreement in the SoCG."*
- 8.7.484. NRW in its DL4 submission [REP4-291] expanded upon its concerns in regard to the above and re-emphasised them in its DL5 submission [REP5-044] in Appendix A where it responded to ExQ2 at Q2.19.4. The ExA does not go into detail regarding those responses here, as by DL6 NRW advised in a meeting held to discuss the issue, held on 17 July 2023, *"...it was confirmed by the Applicant that the northern access track... would not be fenced off during the construction period and that this was already secured within the dDCO. It was also confirmed that there would be no impediment to NRW access along the southern access track during the works... At this meeting, the Applicant agreed to confirm this position and amend the dDCO to guarantee that this is ensured. On that basis, subject to suitable provisions being incorporated into the draft DCO... NRW considers that its concerns regarding access to its flood risk management assets could be satisfactorily resolved."* (NRW DL6 Submission [REP6-049] Appendix B).
- 8.7.485. Irrespective of the above, in the Applicant's completed SoCG with NRW [REP7-261], submitted at DL7, the parties agreed:
- *"NRW is satisfied that the permanent rights corridor will not have any impact on NRW's permissive powers used to maintain and improve flood defence assets." Furthermore, this completed SoCG [REP7-261] in relation to accessing flood risk management assets also confirms as agreed "NRW has powers under distinct legislation to enter the land at any time and its concern is to avoid obstruction as a matter of design, to avoid any potential future conflict. NRW does not consider that protective provisions are the appropriate mechanism for this approval of any potentially obstructive works, either in the Construction Traffic Management Plan (CTMP) and/ or distinct requirement, would be preferred and most suitable mechanism..."*
  - *...the Applicant has amended the OCTMP [Outline CTMP] and OCEMP [Outline Construction Environmental Management Plan] to include the*

*measures sought by NRW. Wording has now been agreed between the Applicant and NRW (via email dated 1st and 4th September 2023) regarding access requirements to the Dee flood risk management assets."*

- 8.7.486. Furthermore, in the 'Applicant's update on the DCO Drafting' document [REP7-294], submitted at DL7, the Applicant advised it "...understands that following the insertion of provisions providing that compound fencing will not prevent NRW taking access to flood defences in the OCEMP and CTMP, NRW are not seeking any PP. Accordingly, no provisions have been included in the draft submitted at DL7."
- 8.7.487. However, NRW never submitted a formal notification of the removal of its concerns to CA/ TP, prior to the closure of the Examination.
- 8.7.488. Having considered all representations made in respect of CA/ TP, by both NRW and the Applicant, as well as the details set out in the Land Plans [CR3-003] and BoR [REP7-025], the ExA is satisfied that the CA/ TP powers sought over the plots nos. identified above are required to facilitate and/ or are incidental to the Proposed Development. The ExA is also therefore satisfied that the powers sought meet the conditions set out in s122(2) of the PA2008.
- 8.7.489. Whilst the exercising of these rights has the potential to interfere with NRW's undertaking, it appears to the ExA that NRW and the Applicant have reached agreement in regard to NRW's concerns related to CA/ TP. As such, with the provisions in place with both the OCTMP and OCEMP, the ExA considers the proposed CA/ TP of land will have no adverse impact in terms of NRW's land, apparatus, and statutory undertaking.
- 8.7.490. In reaching this position, the ExA is especially persuaded by the Applicant's completed SoCG with NRW [REP7-261] and the 'Applicant's update on the DCO Drafting' document [REP7-294], submitted at DL7.
- 8.7.491. In terms of public benefits, the ExA considers the Proposed Development would provide public benefits by:
- meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
  - the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.
- 8.7.492. On balance, the ExA considers the CA/ TP powers sought in respect of the above-mentioned plot nos. would not result in serious detriment to the carrying on of NRW's undertaking. Furthermore, the ExA is satisfied that the inclusion of powers in respect of the extinguishment of rights would be necessary for the purpose of carrying out the development. As such, the ExA considers the tests set out in s127 and s138 of the PA2008 are met.

8.7.493. The ExA also considers the public benefits that would result from this proposed Development outweighs any loss or detriment that may result from the creation of these rights compulsorily. Accordingly, it considers there is a compelling case in the public interest for CA powers to be included in respect of the identified plots and that the test set out in s122(3) is also met.

### **Scottish Power Energy Networks**

8.7.494. SPEN raised concerns in regard to CA/ TP in its RR [RR-075] advising, whilst it had no objection in principle to the Proposed Development, in terms of CA/ TP it would seek to ensure the avoidance of any adverse impact on its network and would be seeking to make comments/ submissions in regard to any aspect of the Proposed Development that may undermine the maintaining and developing of its assets and any future grid network.

8.7.495. SPEN advised of key crossover points of interest, where there are existing high voltage (132kV and 33kV) assets; as well as advising "*it is unclear where there will not be an impact on its assets which are within the DCO limits.*"

8.7.496. In terms of land rights, it considered it would require all its land rights affected to be agreed with it, noting the confirmation of existing and proposed rights was likely to be an expansive task. It also advised where direct and indirect impacts from the Proposed Development on its network arise it would seek to ensure that such impacts could be managed through agreed PP, including in relation to agreeing measures related to contractors and ensuring where existing land rights are interfered with, these rights are replaced with new rights that retain SPEN's existing rights or new rights are created as required. Finally, in terms of CA/ TP, it pointed out that the draft PP in the dDCO as originally submitted [APP-024], where not consistent with PP in its favour secured through similar DCO's made.

8.7.497. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot nos. 1-09, 1-14, 3-12, 3-18a, 5-01, 5-07, 17-03, 17-04, 17-44, 19-04a, 19-04b, 19-04d, 19-13, 20-11, 20-19a, 22-10, 25-10 and 29-05; whilst the permanent acquisition of subsurface is being sought in relation to plot nos. 1-11, 1-12, 1-13, 1-15, 1-18, 1-24, 1-25, 2-05, 2-08, 2-09, 3-11, 3-14, 3-15, 3-16, 3-17, 3-18, 4-12, 4-15, 4-18, 4-19, 4-20, 5-02, 5-10, 5-13, 5-14, 5-16, 7-07, 7-08, 8-15, 9-01, 9-03, 9-22, 10-01, 10-02, 10-04, 10-07, 10-08, 10-10, 10-12, 10-13, 11-06, 11-08, 11-13, 11-14, 11-16, 11-17, 12-05, 12-09, 12-10, 12-14, 12-20, 13-08, 13-09, 13-12, 13-20, 13-21, 14-28, 14-30, 15-01, 15-07, 15-11, 15-12, 15-13, 16-12, 16-13, 16-14, 16-15, 16-18, 16-19, 16-20, 16-21, 16-22, 16-23, 16-24, 16-26, 16-27, 17-02, 17-06, 17-07, 17-08, 17-12, 17-13, 17-29, 17-33, 17-39, 17-40, 18-02, 18-03, 18-04, 18-05, 18-10, 18-11, 18-14, 18-19, 18-24, 18-26, 18-27, 18-28, 18-29, 18-30, 18-31, 18-32, 18-33, 19-04, 19-05, 19-07, 19-08, 19-09, 19-12, 20-03, 20-04, 20-05, 20-06,

20-08, 20-12, 20-19, 20-24, 20-25, 20-26, 21-05, 21-06, 22-07, 22-08 and 22-09.

- 8.7.498. In addition, the above-mentioned documents also indicated temporary use of rights are being sought in relation to Plot No. 2-06, 9-25, 13-13, 17-34 and 19-06; whilst the permanent acquisition of rights are being sought in regard to Plot No. 1-01, 1-01a, 1-02, 1-04, 1-06, 1-06a, 1-06b, 1-06c, 1a-01, 1a-02, 1a-03, 2-04a, 3-06, 5-08, 11-07, 12-06, 12-21, 13-01, 13-02, 13-03, 13-04, 13-05, 13-06, 13-10, 13-11, 14-14a, 14-20, 14-22, 15-14, 16-28a, 16-29, 16-30, 17-17, 17-19 and 28-03.
- 8.7.499. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of SPEN these new rights would apply to plot nos. 1-01, 1-01a, 1-02, 1-03, 1-04, 1-06, 1-06a, 1-06b, 1-06c, 1a-01, 1a-02, 1a-03, 1a-04, 2-04a, 3-06, 5-08, 11-07, 12-06, 12-21, 13-01, 13-02, 13-03, 13-04, 13-05, 13-06, 13-10, 13-11, 14-14a, 14-20, 14-22, 15-14, 16-28a 16,29, 16-30, 17-17, 17-19 and 28-03 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose restrictive covenants.
- 8.7.500. With regard to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (SPEN) these plot nos. are 1-06d, 1-08, 1-17, 2-04, 2-11, 4-11, 5-03, 9-05, 10-04a, 12-13, 12-16, 12-17, 14-14, 16-06a, 16-28, 17-16, 17-31, 17-37, 18-01, 18-13, 18-16, 19-04c, 20-10a, 20-20, 25-08 and 27-02. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:
- Temporary use as a construction access.
  - Temporary use as a construction compound and working area.
  - Temporary use for traffic management.
  - Temporary use as a construction access and working area, and for diversion of public right of way and watercourse.
  - Temporary use as a construction working area and access.
  - Temporary use as a construction access and working area.
  - Temporary use as a construction working area and public right of way diversion.
  - Temporary use as a construction compound, working area and access.
  - Temporary use as a construction access and visibility splay.
  - Temporary use as a working area.

### **ExA's Response**

- 8.7.501. With the exception of the Applicant completing a SoCG with SPEN [REP7-267], no further submissions beyond the RR were made by SPEN

during the Examination. Despite the SoCG confirming PP were agreed, SPEN did not confirm the withdrawal of its concerns.

- 8.7.502. The Applicant kept the ExA updated in regard to progress on PP during the Examination and during ISH3 ([EV-028] to [EV-030] the Applicant confirmed agreement had been reached with SPEN in regard to PP. This was also confirmed in the Applicant's 'Written summary of oral submission...' [REP7-292] and in the Applicant's completed SoCG with SPEN [REP7-267] that confirmed agreement on PP had been reached.
- 8.7.503. Having considered all representations made in respect of CA/ TP, by both SPEN and the Applicant, as well as the details set out in the Land Plans [CR3-003] and BoR [REP7-025], the ExA noted PP have been agreed with the Applicant.
- 8.7.504. The ExA is satisfied that the CA/ TP powers sought over the plots nos. identified above are required to facilitate and/ or are incidental to the Proposed Development and that adequate PP are in place to protect SPEN's interests in this regard. It is therefore satisfied that the powers sought meet the conditions set out in s122(2) of the PA2008.
- 8.7.505. In terms of public benefits, the ExA considers the Proposed Development would provide public benefits by:
- meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
  - the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.
- 8.7.506. In conclusion, the PP being included in the rDCO attached at Appendix D of this report are considered acceptable and afford SPEN an appropriate level of protection in terms of its statutory undertaking, land, and any apparatus. They also ensure the Proposed Development would not result in serious detriment to the carrying on of SPEN's undertaking. Furthermore, the ExA is also satisfied that the inclusion of powers in respect of the extinguishment of rights would be necessary for the purpose of carrying out the development. As such, the ExA considers the tests set out in s127 and s138 of the PA2008 are met.
- 8.7.507. The ExA also consider the public benefits that would result from this proposed Development outweighs any loss or detriment that may result from the creation of these rights compulsorily. Accordingly, it considers there is a compelling case in the public interest for CA powers to be included in respect of the identified plots and that the test set out in s122(3) is also met.

## **Dŵr Cymru Welsh Water**

- 8.7.508. DCWW raised concerns regarding CA/ TP in its RR [RR-023] in its capacity as a SU responsible for sewerage and water. It advised it has numerous assets of concern and had been previously notified of the proposals as part of pre-application discussions with the Applicant.
- 8.7.509. The Applicant seeks CA/ TP powers over the plots identified in Table 4 of this report. As set out in the BoR [REP7-025] and Land Plans [CR3-003] permanent acquisition of land is being sought in relation to plot nos. 17-03, 17-21, 17-43, 17-44, 19-13 and 22-03; whilst the permanent acquisition of subsurface is being sought in relation to plot nos. 9-22, 10-04, 10-13, 10-16, 11-05, 11-06, 12-10, 12-20, 15-07, 15-08, 15-11, 15-12, 15-13, 16-05, 16-09a, 16-10, 16-11, 16-12, 16-13, 16-14, 16-15, 16-18, 16-19, 16-20, 16-22, 16-23, 16-24, 16-25, 16-26, 16-27, 17-06, 17-08, 17-12, 17-13, 17-20, 17-25, 17-26, 17-30, 17-32, 17-33, 17-36, 17-39, 17-40, 17-41, 17-42, 18-02, 18-03, 18-04, 18-05, 18-10, 18-11, 18-14, 18-22, 18-23, 18-24, 18-25, 18-26, 18-27, 18-32, 18-33, 19-05, 19-08, 19-12, 20-01, 20-02, 20-03, 20-04, 20-05, 20-06, 20-27, 21-02, 22-01, 22-05, and 36-01.
- 8.7.510. In addition, the above-mentioned documents also indicated temporary use of rights are being sought in relation to Plot No. 13-18, 16-01 and 17-34; whilst the permanent acquisition of rights are being sought in regard to Plot No. 11-07, 15-09, 16-28a, 16-29, 16-30 and 17-17.
- 8.7.511. The BoR [REP7-025] and Land Plans [CR3-003] also set out the plot nos., where new rights are being sought, with the dDCO at Schedule 8 (Land in which new rights etc., may be acquired). This schedule specifies the relevant plot nos., as well as the new rights sought in relation to those plot nos. In terms of DCWW these new rights would apply to plot nos. 11-07, 15-09, 16-28a, 16,29, 16-30 and 17-17 for rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development and to impose restrictive covenants.
- 8.7.512. With regard to TP, the dDCO at Schedule 7 (Land of which TP may be taken) specifies which plots TP applies to, the purpose for which TP is being sought in relation to each plot no. and the work no. relevant to each plot TP is being sought. In terms of this AP (DCWW) these plot nos. are 10-04a, 10-14, 10-15, 10-17, 11-01, 16-01, 16-11, 16-17, 17-05, 17-16, 17-37, 17-38, 18-01, 18-13, 18-17, 20-10, 20-10a, 21-03, 22-02, 22-04 and 28-02. As set out by the Applicant in Schedule 7 of the dDCO, the purpose for which each plot is being sought varies, as set out below:
- TP for traffic management.
  - Temporary use as a construction access.
  - Temporary use as a construction access and working area, and for diversion of public right of way and watercourse.
  - Temporary use as a working area.
  - Temporary use as a construction working area and access.
  - Temporary use as a construction access and working area.

- Temporary use as a working area, access, and public right of way diversion.
- Temporary use as a construction compound, working area and access.
- Temporary use as a construction access and visibility splay.
- Temporary use as a working area and access.
- Temporary use as a construction compound and working area.
- Temporary use for and to construct an access.

### **ExA's Response**

- 8.7.513. Except for the Applicant completing a SoCG with DCWW [REP7-267], as submitted at DL7, no further submissions beyond the RR were made by DCWW during the Examination. The SoCG confirms all matter contained within were agreed, except in relation to PP. Indeed, in relation to:
- land requirement it was agreed *"The Parties are seeking to determine, where relevant, land rights and use..."* and they *"...will seek agreement where required and have been engaging throughout the pre-application and examination periods. This engagement will continue during detailed design period."* ([REP7-267] Table 3.1 under the heading 'Land')
  - DCWW assets it was agreed *"The Applicant acknowledges DCWW's concerns related to its numerous assets as a statutory sewerage and water undertaker."* It was also agreed *"The Applicant has sought continuing discussions to engage with DCWW throughout the Application process..."*, and *"The Applicant will continue accordingly as far as practicable to ensure DCWW's assets are protected."* It also agrees *"The Applicant has engaged throughout the examination with DCWW with regard to protective provisions and asset protection..."* ([REP7-267] Table 3.2).
- 8.7.514. As such the matter of PP remain outstanding, although the ExA noted the SoCG [REP7-266] at Table 2.1 provides a 'Record of Engagement in relation to the Proposed Development which shows the Applicant has been actively engaged with DCWW regarding negotiating PP.
- 8.7.515. Indeed, the Applicant kept the ExA updated regarding progress on PP during the Examination and during ISH3 ([EV-028] to [EV-030] the Applicant advised of the current position in regard to negotiations with DCWW in regard to PP. This was also confirmed in the Applicant's 'Written summary of oral submission...' [REP7-292], where it advised *"The Applicant provided draft provisions to Welsh Water at its request but has received no comments thereon and Welsh Water have not provided any alternative drafting. The version included accordingly aligns directly with the standard protections for water and sewerage undertakers."* (paragraph 22.1).
- 8.7.516. The ExA's Rule 17 letter [PD-028], dated 14 September 2023, sought further information regarding progress on PP and the 'Applicant's Response to Rule 17 request for further information' [REP9-012] confirmed *"The position remains as set out in the Applicant's update on DCO drafting [REP7-294]... submitted at DL7. The Applicant provided draft provisions to Welsh Water at its request but has received no*

*comments thereon and Welsh Water have not raised any objection to the wording nor provided any alternative drafting.” The Applicant also stated “The version included accordingly aligns directly with the standard protections for water and sewerage undertakers.... accordingly [it] submits that no serious detriment can arise as all of the standard protections are in place.”*

- 8.7.517. Irrespective of the above, DCWW had not removed the concern highlighted in its RR [RR-023] before the Examination closed.
- 8.7.518. Having considered all representations made in respect of CA/ TP, by both DCWW and the Applicant, as well as the details set out in the Land Plans [CR3-003] and BoR [REP7-025], it is clear to the ExA that negotiations regarding PP had progress. Indeed, it would appear to the ExA that the PPs provided to DCWW and incorporated into the final versions of the dDCO accord with the standard PP for water and sewerage undertakers and accordingly no serious detriment will arise in regard to DCWW’s land, apparatus, or statutory undertaking.
- 8.7.519. The ExA is satisfied that the CA/ TP powers sought over the plots nos. identified above are required to facilitate and/ or are incidental to the Proposed Development and that the PP within the dDCOs will protect DCWW’s interests in this regard. The ExA is therefore satisfied that the powers sought meet the conditions set out in s122(2) of the PA2008.
- 8.7.520. In terms of public benefits, the ExA considers the Proposed Development would provide public benefits by:
- meeting a demonstrable overarching need for the proposed development which would directly assist the UK to reach Net Zero goals, including transitional decarbonisation periods and the associated carbon budgets adopted in Wales and England; and
  - the demonstrable and overwhelming regional and UK wide socio-economic case made by the Applicant, offering significant tangible public benefits associated from direct/ indirect investment and subsequent job creation.
- 8.7.521. In conclusion, the PP being included in the rDCO attached at Appendix D of this report are considered acceptable and afford DCWW an appropriate level of protection in terms of its statutory undertaking, land, and any apparatus. They also ensure the Proposed Development would not result in serious detriment to the carrying on of DCWW’s undertaking. Furthermore, the ExA is also satisfied that the inclusion of powers in respect of the extinguishment of rights would be necessary for the purpose of carrying out the development. As such, the ExA considers the tests set out in s127 and s138 of the PA2008 are met.
- 8.7.522. The ExA also consider the public benefits that would result from this proposed Development outweighs any loss or detriment that may result from the creation of these rights compulsorily. Accordingly, it considers there is a compelling case in the public interest for CA powers to be included in respect of the identified plots and that the test set out in s122(3) is also met.



## **8.8. SPECIAL CATEGORY LAND**

8.8.1. None of the land included in the CA request is National Trust Land or Common Land. However, there is Open Space land and there are Crown interests within the Order Limits. A single area of open space land is identified in Part 5 of the BoR [REP7-025] and shown in the Applicant's Special Category Land Plan [REP7-008]. Additionally, the Crown interests are identified in Part 4 of the BoR [REP7-025] and shown on the Crown Land Plans [CR3-004]. This section addresses the ExA's consideration of the Applicant's case and matters raised during the Examination with respect to the Special Category Land identified and Crown Land.

### **OPEN SPACE**

8.8.2. Sections 131 and s132 of the PA2008 apply to the CA of common land, open space or fuel or field garden allotments. In all these cases the PA2008 indicates that an order granting development consent would be subject to Special Parliamentary Procedure (SPP) unless the SoS is satisfied that one of the relevant subsections applies and that fact is recorded in the Order.

8.8.3. The Applicant is seeking the CA of subsoil and rights in regard to plot no. (17-02), which the Applicant refers to as Aston Hill Playground. Details of the CA sought for this open space land are set out in the SoR [REP7-021] (paragraphs 7.1.1 to 7.1.14 (inclusive)), but in general terms it states CA is required in relation to all estates and interests in subsurface land and rights above for construction, operation, maintenance and decommissioning of the authorised development.

8.8.4. This plot is located to the rear of residential properties on the north-western side of Vickers Close, Harwarden. It is primarily laid to grass but has play equipment located towards the north-western end. The rear gardens of the adjoining residential properties in Vickers Close, Harwarden are located to the south-eastern side of the plot; whilst the fields that lie to the north-east and south-west are agricultural in nature.

8.8.5. The ExA posed a number of questions during ExQs in relation to the CA of Open Space (ExQ1 [PD-014] Q1.1.4 and Q1.6.17; and ExQ3 [PD-027] Q3.6.3, Q3.6.4, Q3.6.5 and Q3.6.6). In the light of this questioning the Applicant drew a distinction between the CA of land and the DCO seeking the CA of subsurface (SoR [REP7-021] paragraph 7.1.4). The Applicant advised:

- *"There will be no interference with the surface use and accordingly no interruption of the open space use."*
- *"Plot 17-02 is in use as a playground and the Applicant proposes to use trenchless installation techniques to construct the pipeline under it without interfering with the recreational use of the surface."*
- *"The pipeline for which powers of acquisition are sought would... not impede the open space use..."*

8.8.6. The Applicant also pointed out that rights are also sought for a drainage connection, which would involve some minor, short-lived works on the

surface there and considered the CA of those rights in terms of drainage connection against s132 of the PA2008.

- 8.8.7. In regard to the CA of land/ CA of subsurface it is clear from the Applicant's submissions that the proposed CA of subsurface would comply with s.131(5) of the PA2008 in that:
- the width of the substratum taken by way of freehold acquisition of Plot no. 17-02 would be no more than 8m and with such a "*...width restriction... the total freehold substratum area to be acquired will not exceed 200 square metres*"; and
  - the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public as:
    - The land to be acquired will be beneath the surface, to a minimum depth of 1.2m, though in practice the trenchless crossing to be used is likely to mean it is deeper.
    - The taking of an 8m freehold substratum will have no practical effect for the users of the open space.
    - There can be no impact on the use of the surface of the open space in its current form as the pipeline will be underground and all current and conceivable operational uses of the open space are on the surface or the near surface.
- 8.8.8. Bearing the above in mind, the Applicant submits "*...the giving of exchange land is... unnecessary, taking into the account the interests of those with rights to use the open space land and (to the extent they are different) the interests of the public.*" (Applicant's Response to the Examining Authority's Third Written Questions [REP7-291] at Q3.6.4).
- 8.8.9. In terms of both limbs of the test, as set out in s.131(5) of the PA2008, the ExA can see no reason to disagree with the arguments put forward by the Applicant in this regard as the order land does not exceed 200 square metres in extent and the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.
- 8.8.10. As such the ExA concludes that SPP under s131 of the PA2008 is not required, as the proposed Development would comply with both limbs of the test, as set out in s.131(5) of the PA2008, and the Applicant has recorded that fact, and the subsection concerned, within the dDCO (see page 4 of the final versions of the dDCO).
- 8.8.11. Turning to the CA of rights, s132 of the PA2008 applies to the CA of rights over land forming part of open space. It requires SPP to be followed where a DCO authorises the CA of rights over such land unless the SoS is satisfied that one of the exceptions in s132(3) to (5) applies.
- 8.8.12. Section 132(3) applies if the Order land, when burdened with the order right, will be no less advantageous that it was before to the persons in whom it is vested, other person, if any, entitled to rights of common or other rights and the public.

- 8.8.13. It is the Applicant's view that the of CA rights over land forming the open space would be exempt to the application of the SPP by virtue of s132(3). It states it is seeking rights to install the pipeline, as well as to install and use a drain (seeking a drainage connection from Aston Hill BVS to be constructed in plot 17-03 (Work No. 36) to the existing drain in plot 17-01), under open space land over Plot 17-02 and in order to protect the pipeline a number of restrictive covenants over the surface of the land are being sought.
- 8.8.14. The purpose of the restrictive covenants would be to prevent activities on the surface which would endanger the pipeline (eg restricted activities would include construction, planting of trees over the pipeline area, as well as other rights it has specified in the SoR [REP7-021] at Table 2). The Applicant argues the restrictive covenants intended would be entirely compatible with its designation as open space and there would be no interference with the current uses, including that of the open space and playground which can undertake its regular activities, including ongoing maintenance.
- 8.8.15. The Applicant submits that in the case of the drainage rights, s132(3) of the PA2008 also applies as, whilst there will be some temporary disruption to the use of open space during construction, once the drain has been installed there will be no ongoing impact and the acquisition of the rights sought will not render the open space less advantageous than it is at present to its owner or the public. As such, s132(3) of PA2008 applies and there is no requirement for SPP.
- 8.8.16. No IPs raised any concerns in respect of open space and the ExA asked written questions (ExQ1 [PD-014] Q1.1.4 and Q1.6.17; and ExQ3 [PD-027] Q3.6.3, Q3.6.4, Q3.6.5 and Q3.6.6) around the matter of open space and was satisfied with the responses. This includes responses from the Applicant [REP2-038] and [REP7-291].
- 8.8.17. Based on the above, the ExA concludes that SPP under s132 of the PA2008 does not apply because:
- when burdened with the Order rights, the open space land would be no less advantageous than it was before, in accordance with s132(3) of PA2008; and
  - in respect of s132(2)(b) of PA2008, the Applicant has recorded this within the dDCO (see page 4 of the final versions of the dDCO).

## **CROWN LAND**

- 8.8.18. Section 135(1) of the PA2008 precludes the CA of interests in Crown Land unless the land is held "*otherwise than by or on behalf of the Crown*", and the appropriate Crown authority consents to the acquisition.
- 8.8.19. Section 135(2) precludes a DCO from including any provision applying to Crown Land or Crown rights without consent from the appropriate Crown authority. This is not limited to CA provisions in a DCO.
- 8.8.20. The BoR [REP7-025] identifies plots subject to Crown interests, held by:

- The King's Most Excellent Majesty in Right of His Crown at plot no. 22-04 (in respect of mines and minerals);
- The SoS for Defence at:
  - plot nos. 6-26, 7-07, 7-08, 7-09, 8-01, 8-02 and 8-16 (in respect of apparatus);
  - plot nos. 22-06, 22-07, 22-08, 22-09 and 22-10 (in respect of rights granted by a Deed dated 20 December 1948); and
- The Welsh Ministers at:
  - plot nos. 17-22, 17-24, 19-10, 19-11, 20-01, 20-02, 20-03 and 20-05;
  - plot no. 18-26 (in respect rights granted by a Deed dated 27 December 1984),
  - plot nos. 19-12 and 20-06 (in respect of subsoil up to half-width of highway).

8.8.21. The Work Nos. are set out below and show the plot numbers as they relate to each:

- Work No. 15 (CO<sub>2</sub> Pipeline Works) – plot no. 6-26.
- Work No. 16 (CO<sub>2</sub> Pipeline Works) – plot no. 7-07.
- Work No. 17 (CO<sub>2</sub> Pipeline Works) – plot no. 7-07, 7-08, 7-09 and 8-01.
- Work No. 17A (Permanent Access) – plot no. 7-07 and 7-08.
- Work No. 17B (Permanent Access) – plot no. 7-08 and 7-09.
- Work No. 18 (CO<sub>2</sub> Pipeline Works) – plot no. 8-01.
- Work No. 18A (Temporary Access) – plot no. 8-02.
- Work No. 19 (CO<sub>2</sub> Pipeline Works) – plot no. 8-16.
- Work No. 39 (CO<sub>2</sub> Pipeline Works) – plot nos. 17-22 and 17-24.
- Work No. 42 (CO<sub>2</sub> Pipeline Works) – plot no. 18-26.
- Work No. 44 (CO<sub>2</sub> Pipeline Works) – plot nos. 19-10, 19-11, 19-12, 20-01, 20-02, 20-03, 20-05 and 20-06).
- Work No. 49 (Permanent Access) – plot no. 22-04.
- Work No. 50 (CO<sub>2</sub> Pipeline Works) – plot nos. 22-06, 22-07, 22-08, 22-09 and 22-10).

8.8.22. The extent of the land owned by The King's Most Excellent Majesty in Right of His Crown, or in which there is a Crown interest, is shown on the Crown Land Plans [CR3-004].

8.8.23. The Applicant at Appendix 2 of its DL7 covering letter [REP7-001] provided a copy of the necessary Crown authority, from the Ministry of Defence on behalf of the SoS for Defence, in accordance with s135(1) and s135(2) of the PA2008. Both The Welsh Ministers [AS-081] and the Crown Estate on behalf of The King's Most Excellent Majesty in Right of His Crown [REP9-016] provided the necessary Crown authority, in accordance with s135(1) and s135(2) of the PA2008 on 20 September 2023.

8.8.24. In the light of the above, the ExA is satisfied that the necessary Crown authority has been obtained in relation to Crown Land and/ or Crown

rights, consistent with the BoR [REP7-025], and in accordance with s135(1) and s135(2) of the PA2008.

## **8.9. HUMAN RIGHTS ACT 1998 AND EQUALITY ACT 2010 CONSIDERATIONS**

- 8.9.1. The Human Rights Act 1998 incorporates the European Convention on Human Rights into UK law. Schedule 1 of the Act sets out the Articles. Article 6 (right to a fair trial), Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property) are engaged.
- 8.9.2. In relation to Article 6 (right to a fair trial), the Applicant states that there has been opportunity to make representations during the preparation of the application and owners of land had been consulted. There has also been the opportunity to make representations during the course of the Examination.
- 8.9.3. Furthermore, the ExA provided all APs who wished to be heard an opportunity to be heard fully, fairly and in public at the CAHs, which have been held on separate days and locations. CAH1 was held on 7 June 2023 in Ewole, Flintshire and sat in three sessions, (CAH1 Session 1 [EV-014], CAH1 Session 2 [EV-015] and CAH1 Session 3 [EV-016]), whilst CAH2 was held on 10 August 2023 in Chester, Cheshire and sat in two sessions (CAH2 Session 1 [EV-034] and CAH2 Session 2 [EV-035]). The ExA considers all of the above opportunities to make representations sufficient to meet the obligations set out in Article 6 of the Human Rights Act 1998.
- 8.9.4. In terms of Article 8 (right to respect for private and family life) the Applicant noted, in its SoR [REP7-021], that this article protects private and family life, home and correspondence. It also recognises that no public authority can interfere with these rights except in accordance with the law, and so far as is necessary in the interest of national security, public safety, or the economic well-being of the country. In this regard, the Applicant argues it has considered the potential infringement of these rights in consequence of the inclusion of CA powers within the Order and highlights there would be very significant public benefits arising from the grant of the Order.
- 8.9.5. In consideration of these public benefits, which include (but are not limited to):
- The delivery of compliance with key policies found within NPS EN-1 and NPS EN-4 (as well as the emerging draft NPS EN-1 and NPS EN-4 policies, which are considered to be important and relevant).
  - The transportation of CO<sub>2</sub> from greenhouse gas emitting industries and the overall contributing this will make to the reduction of CO<sub>2</sub> in the atmosphere and making a significant contribution to the international, national, and local effort against the climate emergency.

- The Proposed Development will assist the Government in meet its targets for carbon capture and assist in leading to a decarbonised economy more quickly.
- The potential to capture 10MtCO<sub>2</sub> per year by the early 2030s, which would be the equivalent of taking 4 million cars off the road or the equivalent of heating 5 million households with natural gas boilers for a year. (Meeting the 2026 goal set by the Climate Change Committee a year early and contributing significantly to the target of 20-30 MtCO<sub>2</sub> captured and stored per year).
- Assisting in meeting the ambitious but critical targets set by The Climate Change Act 2008 (as amended) and sets the way forward for other industrial clusters in the UK and abroad to decarbonise industry and the economy, noting the Proposed Development has been recognised by Government as part of its Track-1 Cluster Sequencing process (BEIS, 2021).
- Significant beneficial local and regional impacts will result from the direct, indirect, and induced employment created by the construction phase of the Proposed Development
- The benefit of consistent delivery and supply through the provision of the CO<sub>2</sub> pipeline, which would be resilient to road transport delays, adverse weather, or industrial action.
- Wider benefits to the UK economy as a whole.

8.9.6. It is clear to the ExA that these benefits will only be realised if the Order is accompanied by the grant of powers of CA/ TP and, on balance, it considers that the significant public benefits outweigh the effects on persons who own interests in relevant land or who may be affected by the Proposed Development.

8.9.7. In terms of Article 1 of the First Protocol (protection of property), the Applicant in its SoR [REP7-021] stated it had sought to minimise the amount of land over which it required CA and TP powers. It also argues that, for the reasons as set out immediately above, any infringement of human rights as a result of the inclusion of CA and TP powers in the DCO is proportionate and legitimate and in accordance with national and European law. The Applicant is clear it considers there would be a significant public benefit from the grant of the DCO, which would outweigh the effects on persons who own property within the Order land.

8.9.8. The ExA agrees. What it has found above shows there is a compelling case in the public interest for all of the land identified to be acquired compulsorily, subject to resolution of the various outstanding matters identified above. Furthermore, the ExA is satisfied that the proposed interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest.

8.9.9. The Equality Act 2010 establishes a duty to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The ExA has had regard to this duty throughout the Examination and in its consideration of the issues raised in this report.

## 8.10. CONCLUSIONS

8.10.1. Having considered all of the material submitted to the Examination, the ExA has reached the following conclusions:

- The application site has been appropriately selected.
- All reasonable alternatives to CA have been explored.
- There is a clear need for the CA of all of the land plots identified in the BoR [REP7-025] and detailed on the Works Plans [REP7-007] and, in terms of new rights sought as set out in Schedule 8 (New Rights) of the recommended DCO (see Appendix D of this report), to be subject to CA in terms of new rights.
- There is a clear need for all of the land plots identified in Schedule 7 (Land of which TP may be taken) of the recommended DCO (see Appendix D of this report) and as detailed in the BoR [REP7-025] and detailed on the Works Plans [REP7-007] to be subject to TP.
- There is a need to secure the land and rights required to construct the development within a reasonable commercial timeframe, and the development represents a significant public benefit to weigh in the balance.
- The private loss to those affected has been mitigated through the selection of the land and the minimisation of the extent of the rights and interests proposed to be acquired.
- The powers sought satisfy the conditions set out in s122 and s123 of the PA2008 as well as the CA Guidance.
- The CA powers sought in relation to SUs meet the conditions set out in s127 and s138 of the PA2008 and the CA Guidance.
- The powers sought in connection with:
  - Open Space accords with s132(3) in that when burdened with the order right, will be no less advantageous that it was before to the persons in whom it is vested, other person, if any, entitled to rights of common or other rights and the public; and
  - Crown Land and/ or Crown rights accordance with s135(1) and s135(2) of the PA2008, as the necessary Crown authority, from the Ministry of Defence (provided at Appendix 2 of the Applicant's DL7 covering letter [REP7-001], the Welsh Ministers [AS-081] and the Crown Estate on behalf of The King's Most Excellent Majesty in Right of His Crown [REP9-016], consistent with the BoR [REP7-025], has been obtained.
- The interference with Human Rights would be lawful, necessary, proportionate and justified in the public interest and has been considered as part of a fair process for which compensation is available for loss of property rights.
- The Proposed Development, including in terms of CA/ TP would not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, there would be no breach of the Public Sector Equality Duty.

## **9. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS**

### **9.1. INTRODUCTION**

- 9.1.1. The application draft Development Consent Order (dDCO) [APP-024] and the Explanatory Memorandum (EM) [APP-025] were submitted by the Applicant as part of the application for development consent. Both the dDCO and EM were updated throughout the Examination with optionality, of two versions being introduced at Deadline (DL) 7. This was due to the objection of Natural Resources Wales (NRW) related to the trenched crossing of the Alltami Brook, the Applicant's Preferred Version (APV) of the dDCO, which it did not consider complied with the Water Framework Directive (WFD).
- 9.1.2. As such the latest versions of the dDCO, submitted by the Applicant, were its preferred dDCO Trenched Crossing Version (TCV) [REP9-011] and the dDCO (Embedded Pipe Bridge Version (EPBV) [REP8-007]. EMs were submitted with both versions, with the EM for the TCV (APV) being [REP7-017] and the EM for the EPBV being [REP7-018]. EMs for the respective versions describe the purpose of the dDCO, with each of its articles and schedules.
- 9.1.3. The application dDCO [APP-004], and subsequent versions, are broadly based on the Model Provisions, as set out in the (now withdrawn) Infrastructure Planning (Model Provisions) (England and Wales) Order 2009, but with differences. The original EM [APP-025] and subsequent versions note and explain variations made in the dDCO compared to the Model Provisions. These variations are drawn from the drafting used in other orders for similar developments made under the Planning Act 2008 (PA2008), the Transport and Works Act 1992 and other Acts authorising development. The original application dDCO [APP-004] and subsequent iterations (the most recent versions of the dDCO being the TCV (the APV) [REP9-011] and the dDCO EPBV [REP8-007]) are in the form of a statutory instrument as required by section (s) 117(4) of the PA2008.
- 9.1.4. During the Examination, several further drafts of the Development Consent Order (DCO) were submitted by the Applicant incorporating progressive changes arising from the Examining Authority's (ExA) written questions, points made by Interested Parties (IP), and from the proceedings at the DCO hearings (Issue Specific Hearing (ISH) 2 and ISH3), which was held as blended events (in-person and virtually) on 8 June 2023 (ISH2) and 10 August 2023 (ISH3). Details of these Hearings (ISH2 and ISH3), including how many parts each ISH sat in and who participated, are set out above in paragraphs 1.4.18; 4.2.9; and 4.2.10 above.
- 9.1.5. For the reasons set out in Chapter 5 above, the ExA acknowledges the objections raised by NRW and based on the precautionary principle, considers the APV (the TCV) of the dDCO to be unacceptable. This is due to NRW's objection and the potential risk of loss of water flow to ground



within the Alltami Brook, with the potential to cause deterioration of the Wepre Brook waterbody, and non-compliance with the WFD. Therefore, The ExA has proceeded on the basis of the dDCO EPBV [REP8-007]), submitted at D8, to which NRW do not object, as they do not consider it to be in breach of the WFD.

- 9.1.6. This chapter provides an overview of the changes made to the dDCO during the Examination process, between the application dDCO [APP-004] and the EPBV of the dDCO [REP8-007], which the ExA has taken as the final version, submitted at DL8, for the reasons set out above. It then considers changes made to the final dDCO in order to arrive at the recommended DCO (rDCO) in Appendix D to this report.
- 9.1.7. The ExA do not report on every change made in the updated versions of the dDCO, as some were the result of typographical, grammatical or other minor simple errors, were minor changes, reflected updated documents, or were changes in the interests of clarity or consistency following discussion between the Applicant and relevant IP, or as a result of its written questions. Accordingly, and in the interest of conciseness, the ExA has focussed on key changes made in the updated versions of the dDCO.

## **9.2. THE DCO AS APPLIED FOR**

- 9.2.1. This section records the structure of the dDCO. It is based on the EPBV of the dDCO [REP8-007], which the ExA has taken as the final version, and is as follows:

- Part 1, Article 1 sets out how the Order may be cited and when it comes into force, whilst Article 2 sets out the meaning of the various terms, including the terms 'Commence', 'Maintain' and 'Order Limits'. Article 2 also expands the definition of rights over land, defines measurements as approximate and confirms that references to works are to the works numbered in Schedule 1.
- Part 2, Articles 3 to 5 provides development consent for the Proposed Development and allows it to be constructed, maintained and operated. Article 6 provides limits of deviation, both lateral and vertically and provides the undertaker with a reasonable and proportionate degree of flexibility in constructing the Proposed Development. Article 7 sets out who has the benefit of the powers of the Order and how those powers can be transferred, whilst Article 8 relates to the application and modification of legislative provisions, confirming which statutory provisions are modified and their subsequent application in the context of exercising powers under the Order. Article 9 sets out the defence to proceedings in respect of statutory nuisance.
- Part 3, Articles 10 to 19 provide for the Applicant or a person who has the benefit of the Order to carry out street works to and within streets, the ability to alter street layout; the disapplication of certain provisions within the New Roads and Street Works Act 1991; the

temporary restriction and permanent stopping up of public rights of way; the temporary restriction of use of streets; the ability to form and layout means of access; the ability to enter into agreements with the Street Authority; the use of private roads for construction; and, with the consent of the relevant traffic authority, to impose temporary and permanent traffic regulation orders.

- Part 4, Articles 20 to 24 set out supplemental powers relating to the discharge of water, maintenance of drainage works, authority to survey and investigate land, the ability to undertake protective works to buildings, and the ability to remove human remains.
- Part 5, Articles 25 to 38 provide for the Applicant or a person who has the benefit of the Order the ability:
  - to acquire the Order land, or create, suspend, extinguish or interfere with interests in or rights over land, whilst also preventing acquisition of the rights to any mines and minerals underneath the acquired land, unless expressly purchased. It also provides mine owners with the ability to work the mines and extract minerals, subject to restrictions;
  - to compulsorily acquire land, rights and restrictive covenants and specifies time-limits for the exercise of that authority;
  - to override easements and other rights;
  - to suspend and make unenforceable existing private rights or restrictive covenants where land is compulsorily acquired;
  - to acquire subsoil or airspace only;
  - to appropriate and use land above or below streets within the Order Limits, without having to acquire the street or any right or easement in it;
  - to be able to temporarily use parts of the Order land for the construction of the Proposed Development; and
  - to extinguish rights of Statutory Undertakers (SU) and remove and reposition their apparatus.

The provisions within many of these Articles also:

- enables compensation to be payable to affected persons in respect of affected persons (if not covered elsewhere); and
- provides powers in relation to the recovery of reasonable costs in regard to new connections required where SUs apparatus is removed and this halts supply from that apparatus to owners or occupiers of premises such that they have to seek a connection to other apparatus.
- Part 6, Articles 39 to 49 are concerned with miscellaneous and various general matters/ provisions. They relate to:
  - the application of landlord and tenant law;
  - powers in relation to the removal of hedgerows, as well as powers in relation to trees, including trees covered by Tree Preservation Orders, that need to be removed or lopped in relation to the Proposed Development;

- confirmation that Crown Rights are not affected by the Compulsory Acquisition (CA) powers provided for in the Order;
  - provides protection for SUs, and other IPs, through the Protective Provisions (PP), as set out in Schedule 10;
  - include provisions that the Order land will be operational land under the Town and Country Planning Act 1990;
  - certification of documents;
  - notices served under the Order;
  - prevention of double recovery;
  - the provision of an appeal process for the refusal or non-determination of any details under a Requirement (R) by the relevant planning authority; and
  - arbitration in the case of dispute.
- 9.2.2. There are twelve Schedules to the Order. Schedule 1 provides for the description of the authorised development, whilst Schedule 2 sets out the Requirements which apply to it.
- 9.2.3. Schedules 3 to 6 are linked, as they relate to matters concerning streets, creation of accesses, streets and public rights of way to be temporarily stopped up or restricted. Streets subject to street works (permanent and temporary) are identified in Schedule 3, whilst Schedule 4 identifies new means of access (permanent and temporary). Schedule 5 relates to streets to be temporarily stopped up or restricted, whilst Schedule 6 relates to public rights of way to be temporarily stopped up or restricted.
- 9.2.4. Schedules 7 to 9 are also linked inasmuch as they concern the creation of new rights, Temporary Possession (TP) of land, TP of land for access and compensation. Schedule 7, Part 1 identifies land of which only TP may be taken; whilst Schedule 7, Part 2 identifies land of which only TP for access may be taken. Schedule 8 identifies land in which only new rights may be acquired; whilst Schedule 9 deals with the modification of compensation and compulsory purchase enactments for creation of new rights.
- 9.2.5. Schedule 10 provides PP for SUs and their apparatus, whilst Schedule 11 relates to the removal of hedgerows and sets out the lengths of hedgerows which may be interfered with or removed under the Order. Finally, Schedule 12 provides an arbitration process.
- 9.2.6. The ExA finds the structure of the Applicant's dDCO EPBV [REP8-007], submitted at DL8, as outlined above, is fit for purpose and no changes to the structure are recommended.
- 9.2.7. In terms of Requirements, set out in Schedule 2 of the dDCO, some areas of disagreement remained between the Applicant and the relevant local authorities. In terms of Schedule 2, Part 2 of the dDCO, which relates to Applications made under Requirements, it was clear throughout the Examination that both Councils (CWCC and FCC) were concerned about the imposition of such controls (ie controls related to applications submitted to them under Requirements) and the implications such controls had on their resources.

- 9.2.8. The Applicant's completed SoCG with CWCC [REP8-021] and FCC [REP7-259], are clear that both Councils do not agree with the Applicant in regard to R24 (Further Information), as set out in Schedule 2 of the dDCO. This is partly due to the inclusion of controls in respect of requesting additional information and the inclusion of timescales, bearing in mind a potential need to consult third parties outside the respective Councils. The Applicant sought to address these concerns during the Examination and amended the Requirement 24(2) by increasing the notification period from 10 days to 21 days. However, both Councils remained concerned in respect of timescales, especially where third party consultation has to be undertaken.
- 9.2.9. Reflecting on all the submissions made on this matter in the Examination, the ExA considers that setting out: how approvals are to be given; how any amendments are to be treated; clear time limits for decisions to be made; and provision for circumstances where the discharging authority requires further information to be provided, in relation to an application for the discharge of Requirements are reasonable.
- 9.2.10. Indeed the ExA notes Requirement 24 (Further Information) reflects similar processes and Requirements related to the discharge of Requirements in other DCO's and that the use of such Requirements is established. Similar Requirements can be found in the following DCOs: the Southampton to London Pipeline DCO 2020; River Humber Gas Pipeline Replacement Order 2016; Norfolk Vanguard Offshore Wind Farm Order 2022; Hornsea Three Offshore Wind Farm Order 2020; and the Reinforcement of the North Shropshire Electricity Order 2020.
- 9.2.11. As such, the ExA finds a Requirement that sets out a clear procedure for the discharge of Requirements, such as that proposed in this DCO, is reasonable, necessary, and relevant to the development. Furthermore, it considers the Requirement to be precise, enforceable, and reasonable in all other respects.
- 9.2.12. In addition to the above, the Applicant's completed SoCG with CWCC [REP8-021] and FCC [REP7-259], is clear that both Councils do not agree with the Applicant in regard to R16 (Restoration of Land) as set out in Schedule 2 of the dDCO. In terms of this Requirement neither Council considered the Requirement as a whole to be precise or enforceable. Furthermore, they pointed out the Requirement does not require the approval of a scheme of restoration and aftercare, if required. Amongst other suggestions both Council's sought re-wording of the Requirement to require full details of a restoration scheme.
- 9.2.13. The Applicant had previously responded on this matter in its 'Comments on Submissions Received at Deadline 5' [REP6-035] (Reference 2.3.45) where it stated "*...this Requirement is a reserve power to allow the LPA to require restoration in default or where there is an issue. The primary mechanism for controlling restoration is the land agreements which will include for example schedules of condition before possession is taken, the details of restoration, which will in the main be to the former use...*

*Aftercare of agricultural land once returned to the landowners' use is not appropriate or reasonable as it would not only interfere with the land agreements between the landowner and Applicant but would require the Applicant to control land for longer than necessary, to interfere with the landowners use, to take rights for longer than necessary and it is accordingly disproportionate to move from the control of the landowner to the LPA [Local Planning Authority]."*

- 9.2.14. The ExA notes this requirement follows Requirement 35 of the (now withdrawn) Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 and that similar wording can be found in the River Humber Gas Pipeline Replacement Order 2016 (Requirement 16) and the Hornsea Three Offshore Wind Farm Order 2020 (Requirement 20). Whilst it is noted the, now withdrawn, model provisions required reinstatement of land to its "*former condition*", the River Humber Gas Pipeline Replacement Order provided for the reinstatement to a "*condition fit for its former use*". The Applicant argues this "*...reflects that immaterial changes that do not affect continuance of former use do not need to be dealt with.*"
- 9.2.15. In consideration of all the submissions made in the Examination on this matter, the ExA finds the Applicant's arguments, as set out above, to be particularly persuasive. Bearing in mind the other mechanisms, as highlighted by the Applicant, to control the restoration of the land temporarily possessed as a result of the Proposed Development, the ExA is satisfied as to the precision and enforceability of Requirement 16 in this instance, especially in terms of what it seeks to accomplish. Furthermore, in the light of the above, the ExA also considers Requirement 16 to be acceptable in terms of its necessity, relevance to planning and the Proposed Development. It also finds Requirement 16 to be reasonable in all other respects.
- 9.2.16. In regard to Requirement 4 (Scheme Design), in Part 1 of Schedule 2 of the dDCO, CWCC raised concern that there is a self-approval mechanism for determining whether any changes are material. It also sought clarification in regard to resolving any dispute where there is disagreement as to whether amendments proposed by the Applicant are in 'general accordance' with the 'general arrangements plan'.
- 9.2.17. The Applicant in response pointed to the fact that the wording in this Requirement is entirely standard and has been used in many DCOs, being approved repeatedly by the SoS. As precedent the Applicant refers to the Southampton to London Pipeline Development Consent Order 2020, as well as Thorpe Marsh Gas Pipeline Order 2016, and the River Humber Gas Pipeline Replacement Order 2016. It considers such standard wording in DCOs where an element of flexibility to produce the detailed design is required.
- 9.2.18. Whilst the 'general arrangement plans' are indicative at this stage pending detailed design, the Applicant points out that the details of the above ground elements will be submitted to the relevant Planning Authority for approval under the requirements. Furthermore, the

Applicant highlights the specific wording of the Requirement which states "*...the authorised development will not be in general accordance with the general arrangement plans if any departure from the general arrangement plans would give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.*" As such when details are submitted for approval pursuant to this Requirement the LPA is required to consider if they are within the scope of the Environmental Statement or if further environmental information is required. The Applicant points to the fact that failure to comply with a DCO would be a criminal offence and the relevant planning authority would have to take a view on materiality in that context and could use its enforcement powers available to it where it considers the undertaker has failed to comply .

9.2.19. In consideration of all the submissions made in the Examination on this matter, the ExA does not consider the concerns of CWCC to be justified. Indeed, it is especially persuaded by the fact that similar Requirements have been approved repeatedly by the SoS in DCOs, with recent examples having been provided. As such, the ExA considers the use of this Requirement to be established. It also considers it to be necessary, precise, enforceable, relevant to Planning and the Proposed Development and reasonable in all other regards.

9.2.20. Turning to PP, as set out in Schedule 10 of the dDCO. The PP as set out below, have been agreed:

- Part 1 (For the Protection of Electricity, Gas, Water and Sewage Undertakers), as generic PP to cover those undertakers for whom there are no tailored PP. These PP take a form which is consistent with that contained in other DCOs and Transport and Work Act Orders and no representations on them have been received throughout the Examination process. In the absence of any evidence to the contrary the ExA considers the PP in favour of Electricity, Gas, Water and Sewage Undertakers are fit and appropriate for inclusion in the rDCO.
- Part 2 (For the Protection of Operators of Electronic Communications Code Networks), as generic PP to cover for electronic communications code network operators where there are no tailored PP. These PP take a form which is consistent with that contained in other DCOs and Transport and Work Act Orders and no representations on them have been received throughout the Examination process. In the absence of any evidence to the contrary the ExA considers the PP in favour of Operators of Electronic Communications Code Networks are fit and appropriate for inclusion in the rDCO.
- Part 8 (For the Protection of SP Manweb), the parent company of SPEN who operate and manage the electricity network in the area as a licenced distribution network operator and to afford PP to ensure the agreed measures are made clear to contractors working on site through required method statements and impacts on its network are avoided. The Applicant's Statement of Common Ground (SoCG) completed with SPEN [REP7-267] confirms the PP are agreed. As such

the ExA considers the PP in favour of SP Manweb are fit and appropriate for inclusion in the rDCO.

- Part 9 (For the Protection of CF Fertilisers UK Limited) with a view to minimise and mitigate impacts on their land holding located close to the site, including in relation to drainage and access during construction and operation. Whilst CF Fertilisers made a Relevant Representation (RR) [RR-081] it did not object to the Proposed Development. Indeed, no other representations were received from it during the Examination.

Irrespective of the above, the Applicant was asked to prepare a SoCG with CF Fertilisers Ltd as set out in the ExA's Rule 6 letter, dated 20 February 2023 [PD-011], at Annex E (Procedural Decisions made by the ExA). The Applicant in its 'Statement for Commonality of Statements of Common Ground' (Revision G) [REP6A-006] at Appendix A, included an email chain between it and CF Fertilisers where CF Fertilisers confirmed it did not wish to pursue a SoCG but rather it "...wishes to rely on the PP". It also confirmed the mark-up changes were acceptable to it. This position remained unchanged in all subsequent iterations of the Applicant's 'Statement for Commonality of Statements of Common Ground' (Revision H) [REP7-258], (Revision I) [REP8-020] and (Revision J) [REP9-006]).

As such the ExA considers the PP in favour of CF Fertilisers UK Limited are fit and appropriate for inclusion in the rDCO.

- Part 12 (For the Protection of United Utilities Water Limited (Uuw), in its favour, as the statutory water and sewerage undertaker for the Northwest of England, which ensures its assets are adequately protected and a range of impacts are considered and addressed by the Applicant.

Uuw confirmed in its letter at DL9 [REP9-018] it had "*agreed a set of specific PP with the Applicant*" and submitted a copy of the agreed PP [REP9-017]. The Applicant, in its response to the ExA's Rule 17 request for further information [REP9-012] at Appendix 1 has confirmed the PP in favour of Uuw needs updating to at paragraphs 140 (Interpretation) and 150 (Co-operation) and has provided the agreed wording. As updated the PP are considered fit and appropriate for inclusion in the rDCO and this can be found in the rDCO at Appendix D of this report. The updated paragraphs is addressed further in Table 5 below.

- Part 16 (For the Protection of Welsh Ministers as Strategic Highway Authority), in its role as the Highways Authority responsible for the Strategic Road Network in Wales. The Applicant's completed SoCG with the Welsh Government [REP7-264] confirmed as agreed the Parties have now agreed the wording of the PPs, subject to the inclusion of specified text that the Applicant has incorporated into both versions of the dDCO submitted (the Applicant's TCV (the APV) [REP9-011], submitted at DL9 and the dDCO EPBV [REP8-007]

submitted at DL8). As such the PP require no updating and are considered fit and appropriate for inclusion in the rDCO.

- Part 19 (For the Protection of Drainage Authorities) being:
  - the drainage board concerned, within the meaning of s23(a) (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991; or
  - in the case of any area for which there is no such drainage board, the Lead Local Flood Authority (LLFA) within the meaning of s6 (other definitions) of the Flood and Water Management Act 2010,

for the purposes of safeguard any ordinary watercourse against damage, or to secure that the efficiency of any ordinary watercourse for flood defence or land drainage purposes is not impaired and that the risk of flooding is not otherwise increased, by reason of the specified work in relation to the ordinary watercourse.

Flintshire County Council (FCC), as LLFA for the area in Wales within which the Proposed Development lies, in its DL8 submission [REP8-044] confirmed it had "...agreed PP for drainage..." with the Applicant "...and these should be included in the revised dDCO."

Cheshire West and Chester Borough Council (CWCC), also has the role of LLFA for the area in England within which the Proposed Development lies. In its covering letter submitted at DL8 [REP8-041] regarding drainage it stated: "*The PP contained in the latest revision of the dDCO (Draft I) are approved by the Council.*" Additionally, CWCC in a separate document, also submitted at DL8 (CWCC's Representation Made at DL8) [REP8-041A] confirmed in Table 1.1 at Reference 2.1.1 "...the PP for drainage have been agreed with the Applicant" and "*The Council consider this matter to be resolved.*"

With regard to NRW, in the "Applicant's update on the DCO Drafting" [REP7-294] it advised "...following the insertion of provisions providing that compound fencing will not prevent NRW taking access to flood defences in the outline CEMP [Construction Environmental Management Plan] and CTMP [Construction Traffic Management Plan], NRW are not seeking any PP. Accordingly, no provisions have been included in the draft submitted at DL7." Therefore, NRW have not sought any PP, including in relation to its role as a drainage authority. NRW made no comments in regard to the Applicant's statement above, nor did they make any subsequent submissions at either DL8 or DL9.

In terms of the Environment Agency (EA), it has its own set of PP, which are referred to at Part 21 below.

Bearing all of the above in mind the PP in favour of Drainage Authorities, as set out in the Applicant's final versions of the dDCO (The TCV (the APV) [REP9-011], submitted at DL9 and the EPBV



[REP8-007] submitted at DL8)) require no updating and are considered fit and appropriate for inclusion in the rDCO.

- Part 21 (For the Protection of the EA) as SU, especially in terms of its responsibilities in regard to flood risk, including from main rivers and the sea, and relevant drainage work responsibilities. The Applicant's completed SoCG with the EA [REP9-004] confirmed as agreed "*...the Parties have now agreed the wording of the PP.*"

Bearing this in mind the PP in favour of EA, as set out in the Applicant's final versions of the dDCO (The TCV (the APV) [REP9-011], submitted at DL9 and the EPBV [REP8-007] submitted at DL8)) require no updating and are considered fit and appropriate for inclusion in the rDCO.

9.2.21. The following PP remained outstanding at the close of the Examination and had not been agreed:

- Part 3 (For the Protection of National Grid as Electricity undertaker (National Grid Electricity Transmission PLC (NGET))) and Part 4 (For the Protection of National Grid as Gas Undertaker (National Grid Gas PLC (NGG))). These are PP for the benefit of NGET and NGG and affords them appropriate protection for any land or assets owned or in their control within or located close to the Order Limits, whilst seeking to ensure no serious detriment to it carrying on its undertaking.
- Part 5 (For the Protection of Cadent Gas Limited). These are PP for the benefit of Cadent Gas Limited (Cadent), a SU with land and assets included within, and/ or located close to, the Order Limits and seek to ensure no serious detriment to it carrying on its undertaking.
- Part 6 (For the Protection of Railway Interests). These are PP for the benefit of Network Rail (England and Wales) (NR) and afford NR protection for any works to be carried out within a set distance of railway property, whilst seeking to ensure no serious detriment to it carrying on its undertaking. NR also seek the PP to be tied to:
  - an Asset Protection Agreement (APA) to ensure the appropriate and necessary technical, engineering and safety requirements for working on or near operational railway are applied to the Proposed Development; and
  - a Framework Agreement to manage the direct interface that the Proposed Development has with the operational railway. The Framework Agreement will also append a basic APA, the APA (once completed), the PP, a Clearance of Conditions Agreement and a Property Agreement.
- The Part 7 (For the Protection of Canal and River Trust), as to the operation and management of the waterways and towpaths for public use and enjoyment and maintaining commercial and cruising waterways in a suitable condition for use, safeguarding the protection of the undertaker's assets, whilst seeking to ensure no serious detriment to it carrying on its undertaking.

- Part 10 (For the Protection of Wales and West Utilities) who as a gas utility provider, with land interests within the Order Limits, safeguarding the protection of the undertaker's assets, whilst seeking to ensure no serious detriment to it carrying on its undertaking.
- Part 11 (For the Protection for Dŵr Cymru Welsh Water (DCWW)), as the statutory sewerage and water undertaker having a number of assets within or close to the Order Limits, seeking to safeguard/ protect the undertaker's assets, whilst ensuring no serious detriment to it carrying on its undertaking.
- Part 13 (For the Protection of United Kingdom Oil Pipelines Limited (UKOP)), as the operators of a national pipeline system that transports a variety of fuels (including up to 35% of the UK's petrol and diesel and upwards of 60% of the UK's jet aviation fuel). A section of UKOP's Mersey to Kingsbury pipeline (a high-pressure pipeline) transporting fuel (including petrol, diesel, jet fuel and heating fuels) from Stanlow to Kingsbury for storage and onward delivery to petrol stations and airports would potentially be impacted by the Proposed Development.

With the above in mind UKOP are seeking PP that it considers are of critical importance to ensure that its network retains all necessary protections and rights to enable it to repair, maintain and operate the pipeline network in accordance with its statutory and regulatory framework. It considers any disruption (including any inability to repair or maintain the asset) would significantly impact the supply and storage of fuels across the UK and PPs safeguarding the protection of its assets are required.

- Part 14 (For the Protection of Peel NRE Limited) as owner of land required by the Proposed Development for the Ince Above Ground Installation (AGI), and the associated proposed access, pipeline corridor, and construction compound. This land affected is part of a 130ha development site (at Ince Park, known as Protos), which Peel NRE have been working closely with the Local Authority (CWCC) to deliver various components of, comprises a major energy and resource recovery hub and ecological management areas.
- Part 15 (For the Protection of Encirc Limited) as owner of land required by the Proposed Development and in the interests of its continued operation of: its Glass Manufacturing and Filling Plant; maintaining the required access to its Site; and ensuring that its future development plans can be brought forward.
- Part 17 (For the Protection of National Highways Limited) seeking to afford it NH protection that safeguards its statutory undertaking and interests, as well as the safety and integrity of the SRN, from any works arising from the Proposed Development in the vicinity of the SRN; whilst also seeking to ensure no serious detriment to it carrying on of its undertaking. NH also seek the PP to be tied to:

- A side agreement with the Applicant that regulates (i) the manner in which rights over the Plots are acquired and the relevant works are carried out including terms which protect NH's statutory undertaking and agreement that CA powers will not be exercised in relation to such land; and (ii) the carrying out of works in the vicinity of the SRN to safeguard National Highways' statutory undertaking.
- Part 18 (For the Protection of local highway authorities) being CWCC and FCC, acting in their roles as local highway authority for their respective jurisdictions, seeking PP that safeguards the statutory undertaking of the local highway authority, as well as its interests. The PP are also being sought to ensure the safety and integrity of the local road network is protected from any works arising from the Proposed Development in its vicinity, whilst also seeking to ensure no serious detriment to the carrying on of its undertaking.
- Part 20 (For the Protection of Exolum Pipeline System Ltd) in the interests of protecting its pipeline/ apparatus, including easements that prohibit any development and intrusive activities, as well as the need to safeguard access for both routine maintenance and in an emergency situation.

#### **NGET/ NGG**

- 9.2.22. With Regard to Schedule 10, Parts 2 and 3, NGET and NGG both made RRs ([RR-062] and [RR-063] respectively) in which they confirmed they would require PP within the dDCO for the Proposed Development to ensure that their interests are adequately protected and to ensure compliance with relevant safety standards.
- 9.2.23. NGG advised it was liaising with the Applicant in relation to such PP, along with any supplementary agreements which may be required. However, NGET advised it had not been consulted on the form of PP and confirmed that as currently drafted the PP were not in a form acceptable to it. Irrespective of this, NGET also confirmed it was liaising with the Applicant in relation to PP, along with any supplementary agreements which may be required.
- 9.2.24. Both NGG and NGET requested that the Applicant continue to engage with them to provide explanation and reassurances as to how the Applicant's works pursuant to the Order (if made) will ensure protection for their assets that will remain in situ, along with facilitating all future access and other rights as are necessary to allow them to properly discharge their statutory obligations.
- 9.2.25. Both NGG and NGET advised they "*...would continue to liaise with the Applicant in this regard with a view to concluding matters as soon as relation to these discussions.*" ([RR-062] NGET and [RR-063] NGG).
- 9.2.26. Copies of PP were supplied by NGG [REP1-066] and NGET [REP1-067] at DL1, but these were submitted on their own and not accompanied by any covering letter or explanation. The Applicant has submitted a number of

Draft Statements of Common Ground (dSoCG), which had been supplied to both NGET and NGG, with the latest dSoCG being submitted at DL6 (NGG [REP6-018] and NGET [REP6-017]). Both of these dSoCG state PP are "Under Discussion" with the current position being standard PP are required to be included within the dDCO to safeguard NGGs and NGETs assets, with the form of PP still under discussion. These dSoCG set out that "*Engagement between the parties is iterative and constructive.*" Irrespective, these are dSoCG and only limited weight can be given to them.

9.2.27. The Applicant provided an update regarding the status of PP in its document entitled 'Applicant's update on the DCO Drafting' at DL7 [REP7-294]. In regard to NGG and NGET it advised:

*"These provisions are largely identical in substance. In both cases the provisions are mostly agreed subject to two exceptions. The first is in the Indemnity clause where the Applicant seeks the addition of the text... underlined below;*

- *—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Gas Transmission, or there is any interruption in any service provided, or in the supply of any goods or energy, by National Gas Transmission, or National Gas Transmission becomes liable to pay any amount to any third party, and provided that at all times National [Grid ] [Gas Transmission] will be under an obligation to take reasonable steps to mitigate its loss, the undertaker will—*

*a) bear and pay on demand accompanied by an appropriately detailed invoice or appropriately detailed claim from National..."*

*The second instance of not agreed wording is in the co-operation paragraph:*

- *—(2) For the avoidance of doubt whenever National [Grid] [Gas Transmission]'s consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed, and any action, decision, cost and/ or expense which may be claimed under this Part of this Schedule shall at all times be subject to National [Grid] [Gas Transmission] acting reasonably.*

- 9.2.28. In regard to –(1) above the Applicant states it considers “...it is entirely reasonable where an uncapped indemnity is given that the normal position of parties making a claim to be required to mitigate their own loss (as would apply in compensation claims) is applied.” It also considers “...it reasonable that claim be appropriately detailed to allow the Applicant to understand what costs have been incurred and why these are reasonable.”
- 9.2.29. In regard to –(2) above the Applicant stated it “...should be uncontroversial that parties should only claim reasonable costs” and notes it is in discussion to resolve the provisions drafting through a side agreement. The Applicant advised it was “...confident that agreement can be reached by DL8 and will advise the Examination of any update at DL8.”
- 9.2.30. Other than the RRs and the submission of NGG’s and NGET’s standard PP at DL1, neither has engaged beyond this in the Examination process, despite having the opportunity to respond at DL8 to the Applicant’s DL7 submissions.
- 9.2.31. The ExA asked the Applicant for an update on PP on 14 September 2023 in its Rule 17 letter [PD-028]. In its response submitted at DL9 [REP9-012] the Applicant commented, in regard to NGG and NGET that:
- “The position remains as set out in the DL7 update on DCO drafting [REP7-294] that there are two minor points of drafting not agreed. The Applicant does not consider these points to be controversial. Those changes as shown in track in the DL8 submission and were sent to National Grid on 16 August 2023, but no comments have been received. The provisions as set out in the dDCO [REP8-005] at DL8 are sufficient to ensure that no risk of serious detriment applies.”*
- 9.2.32. Having considered all of the above, the ExA does not consider the position of the Applicant in regard to these PP to be unreasonable. The PP as provided in the current dDCO (the TCV (the APV) [REP9-011] or the dDCO EPBV [REP8-007]) are considered to provide a suitable level of protection in favour of NGET (Part 3) and NGG (Part 4) and are considered are fit and appropriate for inclusion in the rDCO.
- 9.2.33. Irrespective of the ExA’s position on this matter, should the SoS for Energy Security and Net Zero be minded to make the DCO they will need to satisfy themselves that the wording of the PP contained in Schedule 10, Parts 3 (in favour of NGET) and 4 (in favour of NGG) of the DCO are as finally agreed between the Applicant and NGET/ NGG and that the parties are satisfied in relation to any side agreement(s) completed between these parties.

### **Cadent Gas Limited**

- 9.2.34. Turning to Cadent and PP (Schedule 10, Part 5), it has maintained through-out the Examination that it required PP ([RR-006], [REP1-052], [REP3-040], [REP7-297] and [REP8-039]) and provided a preferred form of wording, with its last PP preferred wording submitted at DL8

(Appendix 1 of [REP8-039]). However, this preferred PP wording supplied by Cadent differs from the wording promoted by the Applicant in either of its final versions of the dDCO (the TCV (the APV) [REP9-011] or the dDCO EPBV [REP8-007]).

- 9.2.35. Indeed, there are some quite significant areas of difference, with the Applicant's versions having deleted large parts of the 'Interpretations' section and the complete removal of a section on 'Indemnity'. There are also a number of other areas of minor change.
- 9.2.36. Throughout the Examination the ExA has asked for updates regarding the status of outstanding PP. This included in the ExA's First and Third rounds of Written Questions at Q1.6.11 and Q3.19.1, as well as during the ISH concerning the dDCO (ISH2 [EV-020] to [EV-022] and ISH3 [EV-028] to [EV-030]) and in the ExA's Rule 17 letter of 14 September 2023 [PD-028]. The update provided by the Applicant at ISH3, as also set out in the Applicant's Written Summaries of Oral Submissions made at the Hearings held during the week commencing 7 August [REP7-292], regarding PP with Cadent, advised they were *"...largely agreed, one or two commercial point remain under discussion however the Applicant does not consider these to be irresolvable."*

- 9.2.37. This position was also reflected in the 'Applicant's update on the DCO Drafting' [REP7-294], also submitted at DL7, where it stated:

*"There are no outstanding points of discussions between the Applicant and Cadent in relation to the terms of the PP. However, Cadent's agreement of the PP is subject to agreement on the terms of a private side agreement. The terms of the side agreement are largely agreed, with one outstanding point remaining under consideration."*

- 9.2.38. Irrespective of this, Cadent in its DL8 submission [REP8-039] was clear:

- *the PP included in the dDCO submitted by the Promoter at DL7 "...are not the Cadent preferred PP. The Promoter still has not provided any comment on the Cadent PP to the Examination and has not justified any departure from the Cadent PP."*
- *"Cadent's position remains as per the evidence in front of the Examination; Cadent requests that the Cadent PP are secured within the DCO."*

- 9.2.39. The ExA issued, in part due to the conflicting positions being put forward by the Applicant and Cadent in regard to PP, the Rule 17 letter mentioned above [PD-028] seeking further updates and clarification regarding PP. The Applicant responded at DL9 [REP9-012] regarding PP in favour of Cadent, advising:

*"The side agreement has now been agreed and is in circulation for signing meaning that the PP as included in revisions K [REP8-005] and L [REP8-007] of the dDCO are now agreed. It is understood by the Applicant that following signing of the agreement, Cadent's objection will be withdrawn directly by Cadent."*

- 9.2.40. Irrespective of this at the close of the Examination Cadent had not withdrawn its position regarding PP, as suggested by the Applicant in its DL7 submissions [REP7-292] and [REP7-294], and Cadent, in its DL8 submission [REP8-039], requested the ExA ensures its standard PP are secured in the DCO.
- 9.2.41. It appears to the ExA that the position between the Applicant and Cadent changed between Cadent's DL8 submission [REP8-039] and the Applicant's response to the ExA's Rule 17 letter of 14 September 2023 [REP9-012], with the Applicant advising a side agreement had *"...been agreed and circulated for signing, indicating that the PP, as included in dDCO after DL8 being in an agreed form..."* (Final versions of the dDCO being [REP9-011] (the TCV (the APV) and [REP8-007] (the EPBV).
- 9.2.42. Providing this is correct, the ExA considers the wording of the PP in favour of Cadent would be fit and appropriate for inclusion in the rDCO. However, should the SoS for Energy Security and Net Zero be minded to make the DCO they will need to satisfy themselves that the wording of the PP contained in Schedule 10, Part 5 of the DCO are as finally agreed between the Applicant and Cadent and that the parties are satisfied in relation to any side agreement completed between these parties.

### **Network Rail England and Wales**

- 9.2.43. Turning to NR's position regarding PP (Schedule 10, Part 6), it objected to the Proposed Development, on the basis of the Applicant's proposed PP. NR maintained this position throughout the Examination. However, in the Applicant's SoCG completed with NR [REP8-026] it agrees *"A set of draft PP was circulated by NR and following discussions between NR and the Applicant it was confirmed on 30 August 2023 that the PP were now agreed between the parties."* However, the SoCG also sets out *"NR will require the Applicant to append the agreed PP to the Framework Agreement"* and, in relation to dDCO Articles that are marked as 'under discussion' in the completed SoCG, it notes *"...NR maintains its objection"* and *"...NR will only withdraw its objection upon completion of the Framework Agreement with the appended PP."*
- 9.2.44. This position was further clarified at DL9 in the Applicant's response to the ExA's Rule 17 letter dated 14 September 2023 [REP9-012], where it stated the *"...framework agreement and PP have been agreed. The framework agreement is in the process of being signed but that process has not yet been completed. It is understood that this agreement resolves NR's concerns."* Additionally, the Applicant provided a copy of an email from NR to the Applicant, dated 20 September 2023, with the subject heading 'HyNet North-West CO<sub>2</sub> Pipeline - NR PP and Framework Agreement's' confirming *"...the terms of the Framework Agreement in respect of the land subject to the proposed HyNet Carbon Dioxide Pipeline Order are agreed, subject to the signing formalities."* (See Appendix 8 of [REP9-012]).
- 9.2.45. As such, The ExA is satisfied that PP have been agreed, along with a Framework Agreement ('subject to signing formalities'), between the Applicant and NR, with the most up to date version of PP being those

included within the final drafts of the DCO [REP9-011] (the TCV (the APV) and [REP8-007] (the EPBV). Therefore, the ExA considers the PP as included in the final drafts of the DCO are fit and appropriate for inclusion in the rDCO.

- 9.2.46. Irrespective of this, should the SoS for the Department of Energy Security and Net Zero (DESNZ) be minded to make the DCO they will need to satisfy themselves that the wording of the PP contained in Schedule 10, Part 6 of the DCO are as finally agreed between the Applicant and NR and that the parties are satisfied in relation to any agreement (Framework Agreement/ Deed of Understanding, Property/ APA, Wayleave Agreement, Etc.) have been completed between these parties.

### **Canal and River Trust**

- 9.2.47. The completed SoCG with the CRT [REP7-265] agrees the parties have been engaging on PP and have reached agreement on all matters within these except for those which limit the Applicant's CA powers. This SoCG confirms that the Applicant and the CRT are continuing to engage on the voluntary agreement to acquire CRT Land and once agreement is reached, the outstanding point in PP will be agreed.
- 9.2.48. Indeed, the CRT confirmed in regard to PP at DL6 [REP6-038] that it was considering suggested revisions and comments and that a number of matters within the PP were discussed and agreed at a meeting between the parties in July 2023. The CRT advised it intended to formally respond to the Applicant on the outstanding matters and was keen to work with them to reach agreement on them.
- 9.2.49. The position in the completed SoCG [REP7-265] was also confirmed by the CRT in its DL8 submission [REP8-040] where it stated "*...the only outstanding matter in the PP... is regarding restricting the use of CA powers. The CRT consider that this should be via suitable voluntary land rights.*" However, the CRT also noted the Applicant confirms that as a voluntary agreement has not yet been concluded this demonstrates why CA powers were required to deliver the project. As such the CRT argue the lack of a voluntary agreement being in place was not due to lack of effort on its behalf and that it was still hopeful that such agreement could be reached with the Applicant.
- 9.2.50. Irrespective of this, the completed SoCG with CRT [REP7-265] does confirm that subject to a voluntary land agreement being agreed the outstanding point in the PP will be agreed. However, the ExA was not advised of the completion of any such agreement being in place by the close of the Examination. Despite this it is clear to the ExA that both parties have made substantial progress in regard to the PP and the ExA sees no reason why the Applicant and the CRT would not have reached an amicable agreement in regard to PP by completing the outstanding voluntary land agreement.
- 9.2.51. Whilst the ExA are unable to confirm the parties were satisfied that PP have been agreed, it has no reason to believe the area of disagreement



between the Parties has not been subsequently resolved. Indeed the ExA considers PP in favour of CRT would be fit and appropriate for inclusion in the rDCO. As such, should the SoS for the DESNZ be minded to make the DCO they will need to satisfy themselves that the wording of the PP contained in Schedule 10, Part 7 of the DCO are as finally agreed between the Applicant and CRT and that the parties are satisfied in relation to any voluntary land agreements completed between these parties.

### **Wales and West Utilities**

- 9.2.52. Turning to PP in favour of Wales and West Utilities (WWU) (Schedule 10, Part 10), other than the Applicant completing a SoCG with WWU [REP9-009], it took no other part in the Examination. However, the completed SoCG [REP9-009] agreed "*The Applicant is engaging with WWU in respect of PP*" and "*Engagement has been iterative and constructive*".
- 9.2.53. Irrespective of the above, PP were not agreed prior to the closure of the Examination. However, the ExA has no reason to believe the Applicant's proposed PP in the dDCO are unacceptable to WWU, as they had no engagement during the Examination and in the absence of any evidence to the contrary the ExA considers the PP in favour of WWU are fit and appropriate for inclusion in the rDCO.
- 9.2.54. Irrespective of the above, As such, should the SoS for the DESNZ be minded to make the DCO they will need to satisfy themselves that the wording of the PP contained in Schedule 10, Part 7 of the DCO are as finally agreed between the Applicant and CRT and that the parties are satisfied in relation to any voluntary land agreements completed between these parties.

### **Dŵr Cymru Welsh Water**

- 9.2.55. Turning to DCWW (Part 11), other than the Applicant completing a SoCG with DCWW [REP7-266], DCWW took no other part in the Examination. However, the SoCG [REP7-266] set out that despite "*...actively engaging with DCWW on negotiating PP*" they were not agreed. However, the Applicant clarified this position further at DL9, in its document entitled 'Applicant's response to the Rule 17...' [REP9-012] where it stated:
- "The position remains as set out in the Applicant's update on DCO drafting [REP7-294] submitted at Deadline 7. The Applicant provided draft provisions to DCWW at its request but has received no comments thereon and DCWW have not raised any objection to the wording nor provided any alternative drafting. The version included accordingly aligns directly with the standard protections for water and sewerage undertakers. The Applicant accordingly submits that no serious detriment can arise as all of the standard protections are in place."*
- 9.2.56. Having considered the above, the ExA considers the PP in favour of DCWW, as set out in the current versions of the dDCO (the TCV (the APV) [REP9-011] or the dDCO EPBV [REP8-007]) provide an suitable level of protection in its favour. Indeed, in the absence of any evidence

to the contrary the ExA considers the PP in favour of DCWW are fit and appropriate for inclusion in the rDCO. However, should the SoS for the DESNZ be minded to make the DCO they will need to satisfy themselves that the wording of the PP contained in Schedule 10, Part 11 of the DCO are as finally agreed between the Applicant and DCWW.

### **United Kingdom Oil Pipelines Limited**

- 9.2.57. Turning to UKOP (Also known as the British Pipeline Agency) the 'Applicant's Update on the DCO Drafting' document [REP7-294] advised it *"...agrees that PP in favour of UKOP Limited are appropriate for this development but did not agree the form of such provisions put forward by UKOP Ltd is necessary to secure the required protections for the works that would be consented by the DCO."* It also stated it *"... cannot agree to an obligation to complete a formal works' compound licence in respect of the works compound proposed to be constructed over the apparatus at Plot 6.20"* and *"The PP provide adequate protection for UKOP's apparatus. Any land agreement for the works compound would be entered into with the landowner, which is not UKOP."*
- 9.2.58. However, the Applicant's Statement for Commonality of SoCG [REP8-020], submitted at DL8, indicated a final version of the SoCG was to be provided ahead of the close of Examination, as there were *"...ongoing discussions on PP and licence agreement in relation to compound [Plot No.] 6-20."*
- 9.2.59. The Applicant, in its document "Applicant's Response to the Rule 17 Request for Information" [REP9-012] stated *"PP have now been agreed and it is understood by the Applicant that UKOP's objection will be withdrawn."* However, UKOP had not confirmed this position prior to the close of the Examination.
- 9.2.60. In the absence of any evidence to the contrary, the ExA considers the PP in favour of UKOP would be fit and appropriate for inclusion in the rDCO. However, should the SoS for the DESNZ be minded to make the DCO they will need to satisfy themselves that the wording of the PP contained in Schedule 10, Part 13 of the DCO are as finally agreed between the Applicant and UKOP and that the parties are satisfied in relation to any licence agreement completed between these parties.

### **Peel NRE Limited**

- 9.2.61. Turning to Peel NRE Limited (Part 14), throughout the Examination both the Applicant and Peel NRE have continued discussions on a number of matters, including access, easement corridor/ associated restrictive covenants and land agreements. However, in the absence of reaching agreement on PP, Peel NRE maintained its objections to the Proposed Development. In its DL8 submission [REP8-047] Peel NRE advised: *"...discussions with the Applicant regarding an alternative means of access and the parties are... close to reaching agreement via PP..."*
- 9.2.62. The ExA sought an update regarding outstanding PP in its Rule 17 letter dated 14 September 2023 [PD-028]. In the Applicant's response

[REP9-012] it stated it had "...sought to engage with Peel NRE on the highly complex interactions of the development that impact the Protos site, namely the construction of Ince AGI and associated pipeline, complex access arrangements, Peel NRE's multiple future developments and the many points that Peel NRE raised regarding the Applicant's Environmental Statement. The Applicant and Peel NRE have worked diligently together to reach a consensus, in which the Applicant modified its Environmental Statement and progressed confidential commercial discussions to overcome the issues raised. With a commercial framework agreement in place (agreed and circulated for signing on 20 September 2023 but the process was not completed) the Parties are pleased to confirm that they have reached agreement on agreed PP, and Peel NRE has confirmed to the Applicant that the action points outlined above will satisfy them enough to remove their objections to the DCO Proposed Development once the agreement has been signed."

9.2.63. However, Peel NRE had not confirmed this position, nor removed its objection, prior to the close of the Examination. Irrespective of this, the ExA notes that the PP in favour of Peel NRE in the final dDCO versions ([REP9-011] the TCV (the APV) and [REP8-007] the EPBV) are identical to Peel NRE's PP submitted at DL8 [REP8-047].

9.2.64. As such the ExA considers the PP in favour of Peel NRE Limited would be fit and appropriate for inclusion in the rDCO. However, should the SoS for the DESNZ be minded to make the DCO they will need to satisfy themselves that the wording of the PP contained in Schedule 10, Part 14 of the DCO are as finally agreed between the Applicant and Peel NRE and that the parties are satisfied in relation to any commercial framework agreement completed between these parties.

### **Encirc Ltd**

9.2.65. Turning to Encirc Ltd (Part 15) at the close of the Examination its objection to the Proposed Development remained and agreement on PP and any related side agreement(s) had not been reached.

9.2.66. The Applicant refers to the submission of a completed SoCG with Encirc at DL9. Despite this, no such document was contained within the document pack submitted by the Applicant at DL9 and no such document was submitted by the Applicant prior to the close of the Examination. Therefore, the last version available to the ExA for consideration was the dSoCG being prepared by the Applicant with Encirc [REP6-026], which was submitted at DL6. In terms of the dDCO that draft noted the following as "Under Discussion": "The parties have agreed that PP for the benefit of Encirc shall be included within the DCO. The terms of these provisions are currently under discussion between the parties." (see Table 3-6). As a dSoCG the ExA affords it only limited weight.

9.2.67. Encirc Ltd, as part of its DL7 submissions [REP7-323], included its preferred PP [REP7-321], as well as a 'Table of Outstanding Points Between the Parties in Relation to PP for the Benefit of Encirc' [REP7-322]. This showed the areas of dispute in the draft PP as

paragraphs 2 (178), 3(d) (179(d)), 7 (184), 13 (189) and 14 (\*) (the Numbers in brackets signify the PP paragraph numbers contained in the Applicant's finally submitted dDCO versions (the TCV [REP9-011] (the APV) and the EPBV [REP8-007]), whereas the symbol (\*) signifies that paragraph would be new to the Applicant's finally submitted dDCO versions and would require all subsequent paragraphs to be re-numbered accordingly).

- 9.2.68. The Applicant set out its response to Encirc's DL7 submissions at Appendix 1 of its 'Final Positions Statement' [REP8-037]. Having considered all the submissions made by both parties in regard to PP, the ExA has come to the conclusion that the Applicant's 'Final Positions Statement' [REP8-037] provides clear, reasoned and persuasive arguments justifying why the PP, as set out in the finally submitted dDCO versions (the TCV [REP9-011] (the APV) and the EPBV [REP8-007]), provide an adequate and appropriate level of protection in favour of Encirc Limited. The ExA is not persuaded that the additions to the PP, being promoted by Encirc at DL7, are either proportionate or reasonable additions.
- 9.2.69. Regardless of the ExA's view regarding PP in favour of Encirc Limited, it is noted that Encirc's DL7 submission [REP7-323] states "*The parties are continuing to negotiate in respect of PP for the benefit of Encirc.*" Indeed, the Applicant in its 'Update on the DCO Drafting' [REP7-294] indicates following DL7 "*The Applicant is keen to continue working with Encirc to agree the terms of the PP ...*"
- 9.2.70. Furthermore, the Applicant in its document entitled "Applicant's Response to the Rule 17 Request for Information" [REP9-012] states it has "*...sought to engage with Encirc Limited on the involved interactions of the development that impact Encirc Limited's site, namely the complex access arrangements and Encirc's future development plans.*" It also advised whilst it had "*...not been able to conclude a satisfactory agreement with Encirc...*" it was "*...committed to continue engaging with Encirc post end of Examination.*"
- 9.2.71. Bearing in mind all of the above, the ExA considers PP in favour of Encirc Ltd would be fit and appropriate for inclusion in the rDCO. However, should the SoS for the DESNZ be minded to make the DCO they will need to satisfy themselves that the wording of the PP contained in Schedule 10, Part 15 of the DCO are as finally agreed between the Applicant and Encirc Ltd and that the parties are satisfied in relation to any land, side, technical or other agreements that have been completed between these parties.

### **National Highways Limited**

- 9.2.72. Turning to NH (Part 17) at the close of the Examination its objection to the Proposed Development remained and agreement on PP and any related side agreement(s) had not been reached. It is noted that during CAH2 the ExA asked both parties to seek to narrow their differences bearing in mind the limited amount of time remaining in the Examination.

- 9.2.73. Irrespective of this request, the ExA notes the 'Applicant's final position statement' [REP8-037] states "... *no meaningful progress has been made to resolve the disagreement. The parties are at an "agree to disagree" position...*" As such the ExA is of the opinion NH and the Applicant appear to have reached an impasse.
- 9.2.74. The matter of PP in NH's favour is discussed in Chapter 8 above and is not replicated here so as to avoid duplication.
- 9.2.75. The ExA's considerations and conclusions related to PP in favour of NH, as set out in Chapter 8 above, were reached having reviewed both versions of the PP (the Applicant's current versions of the dDCO being the Trenched Crossing Version (TCV) [REP9-011] (the Applicant's preferred version) and Embedded Pipe Bridge Version [REP8-007]), as well as NH's PP, attached at Appendix 1 of its closing statement [REP8-046]).
- 9.2.76. Reflecting on the position of both parties, as set out in submissions entered into the Examination on the matter, including the KC opinion submitted by the Applicant and DL7 [REP8-038], the ExA concluded it was not persuaded in regard to NH's concerns in relation to the Applicant's proposed PPs. Indeed, the ExA considered the Applicant's arguments against use of NH's PP to be well reasoned and persuasive.
- 9.2.77. As such the ExA concluded the Applicant's proposed PP afford NH an appropriate level of protection in terms of its statutory undertaking, land, and any apparatus, whilst still ensuring the Proposed Development would not result in serious detriment to the carrying on of its undertaking. Therefore the ExA considers the inclusion of PP in favour of NH as currently set out in both versions of the DCO, as described above, would be fit and appropriate for inclusion in the rDCO at Appendix D of this report.
- 9.2.78. Irrespective of the above, should the SoS for the DESNZ be minded to make the DCO they will need to satisfy themselves that the parties are satisfied in relation to any commercial agreement completed between these parties.

### **Local Highway Authorities**

- 9.2.79. Turning to Local Highway Authorities (Part 18), both CWCC and FCC changed their position in relation to the impact of the Proposed Development on their statutory undertaking and raised objection to the Proposed Development. The ExA was advised of this change in position late in the Examination with CWCC advising of its change in position at DL7 [REP7-306] and FCC advising of its change in position at DL8 [REP8-044]. Therefore, at the close of the Examination their objections to the Proposed Development remained and agreement on PP had not been reached.
- 9.2.80. The matter of PP in favour of the local highways authorities is discussed in Chapter 8 above and is not replicated here so as to avoid duplication.

9.2.81. The ExA's considerations and conclusions related to PP in favour of the Local highway authorities, as set out in Chapter 8 above, were reached having reviewed both versions of the PP (the Applicant's current versions of the dDCO being the Trenched Crossing Version (TCV) [REP9-011] (the Applicant's preferred version) and Embedded Pipe Bridge Version [REP8-007]), as well as the version of PP supplied by the CWCC at DL7 [REP7-300] (FCC agreed CWCC's version of PP were acceptable to it in its DL8 submission [REP8-044]).

9.2.82. Having reviewed both versions of the PP (the Applicant's current versions of the dDCO) and the PP promoted by CWCC/ FCC, as submitted at DL7 [REP7-300]), and having reflected on the position of all parties relevant to this matter, as set out in submissions entered into the Examination, including:

- The Applicant's Final Position Statement [REP8-037], which contains the Applicant's rebuttal concerning CWCC's observations concerning Article 12 of the dDCO;
- the KC's opinion submitted by the Applicant at DL8 [REP8-038]; and
- the Applicant's Response to the Rule 17 Request for Information' [REP9-012], Appendix 7 (sic), which set out its '...response to Q5, Applicant's response to CWCC [REP8-041a]',

the ExA concluded it was not persuaded in regard to the concerns raised in regard to pp by these SUs.

9.2.83. Indeed, the ExA found the Applicant's arguments against use of the PP promoted by the local highway authorities to be well reasoned and persuasive. As such, it was satisfied the Applicant's PP, which are included in the rDCO at Appendix D of this report, would afford CWCC and FCC (acting as the local highway authority, within their respective jurisdictions), an appropriate level of protection in terms of their statutory undertaking, land and any apparatus, whilst also ensuring the Proposed Development would not result in serious detriment to the carrying on of their undertaking.

9.2.84. As such, the ExA considers the inclusion of PP in favour of the Local Highway Authorities, as currently set out in both versions of the DCO as described above, would be fit and appropriate for inclusion in the rDCO at Appendix D of this report and is satisfied in this regard.

### **Exolum**

9.2.85. The Applicant, in its DL7 submission 'Applicant's update on the DCO Drafting' [REP7-294] advised discussions on PP with Exolum were ongoing, but some areas of the PP sought remained in disagreement. These areas of disagreement related to compulsory powers, the definition of deed of consent, rights of access and the timeframe to approve plans.

9.2.86. Exolum in its DL8 submission [REP8-050] advised PP are agreed save wording preventing the acquisition of Exolum's premises and interests in land, as set out in Exolum's preferred PP also submitted at DL8 [REP8-051]. It noted the Applicant has not agreed to the inclusion of its

wording, but noted equivalent wording appears in other PP within the dDCO submitted at DL7 [REP7-014], quoting Part 3 paragraph 20, Part 4 paragraph 36, and Part 5 paragraph 52. As such it advised it hoped the Applicant would agree to the inclusion of this wording and advised it would continue to engage with the Applicant to agree the PP.

- 9.2.87. The Applicant in its DL7 submission [REP7-294], mentioned above, sets out its reasoning why it cannot concede in regard to this matter. In terms of Compulsory powers it stated:

*"The Applicant cannot agree to any limits to the compulsory powers by way of requiring Exolum's consent to exercise those compulsory powers in the absence of a suitable voluntary land rights agreement. That a voluntary agreement has not yet been concluded demonstrates why these powers are required to ensure delivery of the NSIP."*

- 9.2.88. The ExA's Rule 17 letter [PD-028], sought further information in regard to the exclusion of Exolum's preferred wording and in the 'Applicant's Response to the Rule 17 Request for Information' [REP9-012] it objected to the 'lifting' of wording from other PP and advised it considered that applying them in this instance it would fail to have regard to the different facts and circumstances in place in this case.

- 9.2.89. Noting two separate issues with Exolum's draft PP, submitted at DL8 [REP8-051] as non-acquisition of their apparatus (which the Applicant notes as agreed), and other apparatus owners have PP, the Applicant responded:

*"The second issue is around the effect of powers on the land rights that Exolum hold; in this case the differentiator between Exolum and other protected parties is the difference between an easement (held by other infrastructure providers) and a lease right. As Exolum have a lease, the acquisition of the freehold interest would extinguish that. Leases cannot be created through exercise of compulsory powers. The wording proposed would therefore prevent the Applicant acquiring the freehold interest because of the consequential effect on the lease."*

*Exolum's proposed wording would prevent the Applicant from acquiring other interests in land without their consent – which consent is not subject to limitations as to their placement of their interest but essentially could act to create a ransom situation (while the Applicant does not consider that to be the intention it would be the effect and is therefore unacceptable to the Applicant)."*

- 9.2.90. The Applicant in its response stresses "...it has no intention, need, or wish to acquire Exolum's apparatus however, because of the constraints of CA, it may be necessary to interfere with their lease rights as a consequence of any acquisition of the freehold interest." With a view to remedying this area of disagreement, the Applicant has proposed alternative wording to the PP. It states it considers the alternative wording "...would secure that Exolum are granted a replacement lease, by the Applicant, on the same terms as the existing at the time the acquisition takes place: in effect an immediate, like for like replacement."

- 9.2.91. The Applicant attached its suggested revised PP wording in Appendix 1 of its document 'Applicant's Response to the Rule 17 Request for Information' [REP9-012] and in Appendix 8 of the same document enclosed a copy of an e-mail from Veale Wasbrough Vizards LLP, acting on behalf of Exolum, dated 20 September 2023 confirming the PP attached to that e-mail were agreed. Those PP were reflective of the changes to Exolum's PP as set out in Appendix 1 of [REP9-012] mentioned above.
- 9.2.92. Irrespective of the above, no confirmation of Exolum removing its objections to PP was received by the ExA prior to the close of the Examination. However, the ExA considers adding such wording, as suggested in Appendix 1 of [REP9-012] mentioned above, is necessary and appropriate especially in the light of the parties appearing to have reached agreement on this matter. Therefore, the ExA considers the inclusion of PP, as revised by the additional wording in Appendix 1 of [REP9-012], in favour of Exolum would be fit and appropriate for inclusion in the rDCO at Appendix D of this report.
- 9.2.93. As such, should the SoS for the DESNZ be minded to make the DCO they will need to satisfy themselves that the wording of the PP contained in Schedule 10, Part 20 of the DCO are as finally agreed between the Applicant and Exolum.

### **9.3. CHANGES DURING THE EXAMINATION**

- 9.3.1. The Applicant updated the dDCO prior to the start of and several times during the Examination. These updates responded to issues raised in the ExA's written questions, to RRs and Written Representations and as a consequence of the hearing process. It also submitted updated versions of the dDCO with each Change Request (CR) it submitted, of which there were three CR (CR1, CR2 and CR3). The Applicant at each revision submitted a clean copy and a copy showing tracked changes from the previous clean copy version. There were five exceptions to this, as detailed below:
- no versions of the dDCO were submitted at DL2, DL5, DL6 or DL6A; and
  - the Applicant only submitted a clean version of its preferred dDCO at DL9, although this was identical to the APV of the dDCO submitted at DL8.
- 9.3.2. It should be noted that from DL7 the Applicant submitted two versions of the dDCO, one was the TCV (the APV) and the other was the EPBV. This was done by the Applicant to address concerns raised by NRW regarding its TCV of the dDCO (the APV). These submissions are recorded in the paragraphs below.
- 9.3.3. The versions of the updated dDCO submitted by the Applicant were as follows:
- Submitted prior to the commencement of the Examination [AS-016] (Clean) and [AS-017] (tracked).



- DL1 version [REP1-004] (clean) and [REP1-005] (tracked).
- CR1 version [CR1-017] (clean) and [CR1-018] (tracked).
- DL3 version [REP3-005] (clean) and [REP3-006] (tracked).
- CR2 version [CR2-008] (clean) and [CR2-009] (tracked).
- DL4 version [REP4-008] (clean) and [REP4-007] (tracked).
- CR3 version [CR3-008] (clean) and [CR3-009] (tracked).
- DL7 versions:
  - TCV (APV) [REP7-013] (clean) and [REP7-016] (tracked);
  - EPBV [REP7-014] (clean); and
  - Comparison of APV to the EPBV [REP7-015] (tracked).
- DL8 versions:
  - TCV (APV) [REP8-005] (clean) and [REP8-006] (tracked); and
  - EPBV [REP8-007] (clean) and [REP8-008] (tracked).
- DL9 version being TCV (APV) [REP9-011] (clean).

9.3.4. Additionally, the Applicant submitted a 'Schedule of Updates to the dDCO' documenting the changes to the dDCO at various DLs throughout the Examination. This enabled the changes to various iterations of the dDCO to be followed as the Examination progressed. The Applicant's 'Schedule of Updates to the dDCO' were submitted as follows:

- prior to the Examination opening [AS-020]; and
- during the Examination at:
  - DL1 [REP1-008];
  - acceptance of CR1 [CR1-019],
  - DL3 [REP3-009],
  - at acceptance of CR2 [CR2-010],
  - DL4 [REP4-011],
  - at acceptance of CR3 [CR3-010],
  - DL7 [REP7-020] providing a schedule of changes to both the TCV (APV) and the EPBV; and
  - DL8 [REP8-009].

9.3.5. No schedule of change to the dDCO was provided in relation to the Applicant's DL9 version, being TCV of the dDCO (the APV), as it was identical to the TCV of the dDCO (the APV) submitted at DL8.

9.3.6. Progression through the versions of this documentation provides a clear explanation of the majority of changes made to the dDCO during the Examination.

9.3.7. The key changes to the dDCO during the Examination, and the reasons for these changes, are set out in Table 5 below:

**Table 5: Key Changes to the dDCO made during the Examination**

Version of dDCO	Key Changes
<p>Prior to the start of the Examination Additional Submission</p> <p>[AS-017]</p> <p>(Tracked Version)</p>	<p>Article 2(1) (Interpretation) – definition of:</p> <ul style="list-style-type: none"> <li>▪ “requirements” amended to improve clarity and reflect recent precedent; and</li> <li>▪ “scheduled work” deleted, as defined term not used.</li> </ul> <p>Article 9 (Defence to proceedings in respect of statutory nuisance) - sub-paragraph (1)(a)(ii) amended, to improve clarity and reflect recent precedent.</p> <p>Article 11 (Power to alter layout, etc. of streets) – Article 11(1) amended, to improve clarity and reflect recent precedent.</p> <p>Article 12 Application of the 1991 Act – Article 12(2) deletion of “(e) s61(protected streets)” as the disapplication of s61 was still under discussion and not agreed.</p> <p>Article 21 Authority to survey and investigate the land – To improve clarity in Article 21(7).</p> <p>Article 34 Temporary use of land for carrying out the authorised development – To improve clarity and reflect recent precedent articles 34(1), 34(3)(a) and 34(8) have been amended as set out below:</p> <p>Article 34(1) the following text added to the list:</p> <p><i>“(f) construct any works, or use the land, as specified in relation to that land in column 3 of Schedule 7, or any mitigation works;</i></p> <p><i>(g) construct such works on that land as are mentioned in Part 1 of Schedule 1 (authorised development); and</i></p> <p><i>(h) carry out mitigation works required pursuant to the Rs in Schedule 2.”</i></p> <p>Article 34(3)(a) the following underlined text has been added:</p>

Version of dDCO	Key Changes
	<p><i>"(a) in the case of land specified in paragraph (1)(a)(i) and (ii), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of <u>Parts 1 and 2 of Schedule 7</u> (land of which only TP may be taken); or..."</i></p> <p>Article 34(8) the following crossed-through text has been deleted and the underlined text added:</p> <p>"The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(<del>iii</del>) <u>and (ii)</u> except that the undertaker is not to be precluded from—</p> <p><u>acquiring new rights over any part of that land under article 26 (CA of rights).</u></p> <p><del>acquiring new rights over any part of that land under article 26 (CA of rights and restrictive covenants); or</del></p> <p><del>acquiring any part of the subsoil of (or rights in the subsoil of) that land under article 31 (acquisition of subsoil or airspace only).</del></p> <p>Article 35 Temporary use of land for maintaining the authorised development – A new sub-paragraph 12 was added to reflect precedent.</p> <p>Article 39 Felling or lopping of trees and removal of hedgerows – Article 39(1) was amended to reflect Tree Preservation Order provisions, whilst Article 34(4) was amended to restrict the power sought to the hedgerows specified in the schedule.</p> <p>Schedule 1 (authorised development) –</p> <ul style="list-style-type: none"> <li>▪ Work No. 1, by adding item (xi) to list (a) reading: <p style="margin-left: 40px;"><i>"(xi) above ground pipework, valves and instrumentation;"</i></p> </li> <li>▪ Work No. 9, amended at item (viii) amended by deleting reference to "High Intensity Pressure Protection System" and adding the</li> </ul>

Version of dDCO	Key Changes
	<p>words "above ground pipework, valves and instrumentation;"</p> <ul style="list-style-type: none"> <li>▪ Work No's. 17A and 17B: amended to read: <p><i>"Creation and use of a permanent access from Wervin Road, within the location shown on Sheet 7 of the Work Plans, including—</i>  <i>(a) creation of a new bellmouth junction with the public highway; and</i>  <i>(b) improvement of road surfacing and provision of new hard surfacing."</i></p> </li> <li>▪ Work No. 20 amended to read: <p><i>"Construction of a Block Valve Station (BVS) at Rock Bank, at the location shown on Sheet 8 of the Works Plans, including—</i>  <i>(a) a fenced compound area containing:</i>  <i>(i) security lighting;</i>  <i>(ii) block valve;</i>  <i>(iii) parking;</i>  <i>(iv) cathodic protection measures;</i>  <i>(v) CCTV cameras, intrusion detection systems and access control systems;</i>  <i>(vi) above ground pipework, valves and instrumentation;</i>  <i>(vii) connection points;</i>  <i>(viii) control mechanisms and</i>  <i>(ix) hard standing;</i>  <i>(b) below ground pipework;</i>  <i>(c) above ground control boxes;</i>  <i>(d) hard standing;"</i></p> </li> <li>▪ Work No. 26 amended to read: <p><i>"Construction of a BVS at Mollington, at the location shown on Sheet 10 and 11 of the Works Plans, including—..."</i> the same amendments as set out in Work No. 20 above from (a) through to (d).</p> </li> <li>▪ Work No. 36 amended to read: <p><i>"Construction of a BVS at Aston Hill, at the location shown on Sheet 10 and 11 of the Works Plans, including—..."</i> the same amendments as set out in Work No. 20 above from (a) through to (d).</p> </li> </ul>

Version of dDCO	Key Changes
	<ul style="list-style-type: none"> <li>▪ Work No. 40C amended to read: <p><i>"Creation and use of a permanent access from Church Lane, within the location shown on Sheet 17 of the Work Plans, including—</i>  <i>(a) creation of new bellmouth junction; and</i>  <i>(b) improvement of road surfacing and provision of new hard surfacing."</i></p> </li> <li>▪ Work No. 42C amended as 40C above, but replaces reference to Church Lane with reference to Green Lane.</li> <li>▪ Work No. 45 amended to read: <p><i>"Construction of an AGI at Northop Hall, within the location shown on Sheet 20 of the Works Plans, including—</i>  <i>(a) a fenced compound area containing;</i>  <i>(i) security lighting;</i>  <i>(ii) electrical transformer;</i>  <i>(iii) parking;</i>  <i>(iv) CCTV cameras, intrusion detection systems and access control systems;</i>  <i>(v) isolation valves;</i>  <i>(vi) connection points;</i>  <i>(vii) analyser house;</i>  <i>(viii) control mechanisms and</i>  <i>(ix) hard standing;"</i></p> </li> <li>▪ Work No. 48 amended by deleting the wording crossed-through, as follows: <p><i>"Construction of an AGI at Flint, <del>comprising equipment for the control and interface of Work No. 50,</del> within the location shown on Sheet 22 of the Works Plans..."</i></p> </li> <li>▪ Work No. 50 amend after <i>"(e) landscaping, ecological and environmental works"</i> by adding <i>"(f) works to connect to the existing pipeline; and"</i> and amending existing (f) to (g).</li> <li>▪ Work No. 51 amended to read: <p><i>"Construction of a BVS at Cornist Lane, at the location shown on Sheet 10 and 11 (Sic) of the Works Plans, including—..."</i> the same</p> </li> </ul>

Version of dDCO	Key Changes
	<p>amendments as set out in Work No. 20 above from (a) through to (d).</p> <ul style="list-style-type: none"> <li>▪ Work No. 53 amended to read: <i>"Construction of a BVS at Pentre Halkyn, at the location shown on Sheet 10 and 11 (Sic) of the Works Plans, including—..."</i> the same amendments as set out in Work No. 20 above from (a) through to (d).</li> <li>▪ Work No. 53 amended to read: <i>"Construction of a BVS at Babell, at the location shown on Sheet 10 and 11 (Sic) of the Works Plans, including—..."</i> the same amendments as set out in Work No. 20 above from (a) through to (d).</li> </ul> <p>Schedule 2 R1 (Interpretation) - the definitions of "DEMP" (Decommissioning Environmental Management Plan) added.</p> <p>Schedule 2 R4 - In response to a request from the relevant planning authorities that the details of above ground works be subject to approval prior to commencement this R has been amended with deleted text crossed-through and new text shown as underlined:</p> <p>R4(1) <del><i>"Works Nos. 1, 9, 20, 26, 36, 45, 48, 51, 53, and 56"</i></del> <u><i>The authorised development must be carried out in general accordance with the general arrangement plans."</i></u></p> <p>Table 1, rows 5 and 8, amended: <i>"Maximum height of buildings and structures <u>including operational fencing and lighting columns</u>"</i>.</p> <p>R4(4) <del><i>"Each of Work Nos. 1, 9, 20, 26, 36, 45, 48, 51, 53 and 55 may not be commenced until, for that Work No. the following details have been submitted to and approved by the relevant planning authority:</i></del> <u><i>(a) the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings and structures;</i></u></p>

Version of dDCO	Key Changes
	<p><i><u>(b) details of permanent accesses to the public highway;</u></i></p> <p><i><u>(c) details of any external lighting; and</u></i></p> <p><i><u>(d) details of the noise ratings of any external machinery or potentially noisy installations (such as fans)."</u></i></p> <p>R4(5) amended to read "No part of Work No. 43 within the course of the Alltami Brook watercourse may be commenced until details of the design and construction methodology of any works within that watercourse have been submitted to and approved by the relevant planning authority following consultation with NRW."</p> <p>R4(6) new sub-paragraph added reading:</p> <p><i>"The Works listed in sub-paragraph (1) must be constructed in accordance it the details approved under this paragraph."</i></p> <p>R6(4) amended to secure implementation in line with the other Rs.</p> <p>R8(1) Amended to apply to all above ground sites (Work Nos. 1, 9, 20, 26, 36, 45, 48, 51, 53 and 55).</p> <p>R11(3) amended to secure implementation in line with the other Rs.</p> <p>R15(2) amended as requested by the relevant planning authorities to add in requiring the provision of 'as built' details.</p> <p>R17(5) amended to secure implementation in line with the other Rs.</p> <p>R24(2)(b) amended to enable a longer period to be agreed, as sought by the relevant Planning Authorities.</p> <p>Schedule 10 (PP) New parts added (Parts 8, 9, 10, 11 and 12) to reflect the requests from IPs for further provisions.</p>
DL1 Version	Article 2 (Interpretation):

Version of dDCO	Key Changes
<p>[REP1-005] (Tracked)</p>	<p>“authorised development” wording “and associated development” deleted, as there is no associated development in Schedule 1;</p> <p>“CEMP” definition inserted, move from Schedule 2;</p> <p>“highway authority” amended in response to ExQ1;</p> <p>“outline operational and maintenance environment management plan” definition inserted;</p> <p>“outline public rights of way management plan” definition inserted.</p> <p>Article 6 (Limits of deviation) and Article 34 (Temporary use of land for carrying out the authorised development) – Amended in response to ExQ1 and in order to clarify the limits.</p> <p>Article 23 (Removal of human remains) – Amended in response to ExQ1.</p> <p>Article 36 (SUs) – Amended for clarity that the power is subject to the PP.</p> <p>Article 44 (Certification of plans, etc) - Plans have been added for certification.</p> <p>Schedule 1 (authorised development) - Changes made to Work No’s. 1, 9, 17, 45, 51B, 57I, 57M; by adding/ deleting text due to text being superfluous, to correct an error or in response to ExQ1. Additionally Work No. 57N added, as it had been omitted in error.</p> <p>Schedule 2, Part 1 R - standardise wording to ‘implement’ added through-out the Rs, where appropriate.</p> <p>R5(2) – Item (n) public rights of way management plan added to list.</p> <p>R9 (Contaminated land and groundwater) – Amended in response to ExQ1.</p> <p>R17 (Postconstruction environmental management plans) – Amended to provide clarity.</p>



Version of dDCO	Key Changes
	<p>Schedule 8 (Land in which only new rights etc., may be acquired) – Corrected throughout to address minor errors.</p> <p>Schedule 9 (Modification of compensation and compulsory purchase enactments for creation of new rights) – In response to ExQ1 the Table within this schedule has been table has been split-up to better define the rights sought over each plot.</p>
<p>CR1 Version (Accepted CR1 Version)</p> <p>[CR1-018] (Tracked)</p>	<p>Schedule 1 (authorised development) - Changes made to Work No's. 3, 16A, 16B, 32A, 45B, and 46, reflecting changes sought as part of the CR.</p> <p>Schedules: 4 (New means of access); 5 (Streets to be temporarily stopped up or restricted); 6 (Public rights of way to be temporarily restricted); 7 (Land of which only TP may be taken)' and 8 (Land in which only new rights etc., may be acquired) – Tables within these schedules amended to reflect the changes sought as part of the CR.</p>
<p>DL3 Version [REP3-006] (Tracked)</p>	<p>Article 2 (Interpretation) – Definition of:</p> <p>“Commence” amended as sought in Local Authority representation;</p> <p>“existing pipeline” amended to add Work Nos. to identify where these pipeline works sit.</p> <p>Articles: 10 (Street works); 11 (Power to alter layout, etc. of streets); 15 (Access to works); 18 (Traffic regulation) and Article 21 (Authority to survey and investigate the land), amended as follows:</p> <ul style="list-style-type: none"> <li>▪ Articles 10(4), 11(4), 15(2), 18(1) and 21 amended to add explicit ability to impose conditions.</li> <li>▪ Articles 10(5) and 11(5) amended so the trigger for commencement from when an application is made to when the application is received by the street authority.</li> </ul>

Version of dDCO	Key Changes
	<ul style="list-style-type: none"> <li>▪ Changes to the text in Articles 13(5) and 18(5).</li> <li>▪ Articles 18(6) and 18(9) insertion of new sub-paragraphs, with following sub-paragraphs renumbered.</li> </ul> <p>All of these amendments were made as requested by local authority representations.</p> <p>Article 14 (Temporary restriction of use of streets) - Article 14(5) text amended to align with changes made to other similar drafting, whilst text in Article 14(7) replaced to change the trigger of the start of period, as requested in local authority representations.</p> <p>Schedule 2, Part 1 Rs</p> <p>Changes made to the text of the following Rs, as requested by Local Authorities:</p> <ul style="list-style-type: none"> <li>▪ R2 (Time limits) <ul style="list-style-type: none"> <li>○ R(2) - Time period for notification period for intention to commence extended to 14 days;</li> </ul> </li> <li>▪ R13 (Construction hours) <ul style="list-style-type: none"> <li>○ R13(1) - Allowing for exceptions, as approved by the relevant planning authority.</li> <li>○ R13(3) – removing and adding text for precision/ clarity.</li> </ul> </li> </ul> <p>Other Changes to Rs:</p> <ul style="list-style-type: none"> <li>▪ R17 (Operational and Maintenance Environment Management Plan) and R18 (Decommissioning Environmental Management Plan) - Changes made to ensure correct document/ plan is referred to in these Rs and at R17(3) insertion of sub-paragraph ensuring implemented in accordance with approved document.</li> <li>▪ R20 (Amendments to approved details) – Change to text at R20(4) to extend time period</li> </ul>

Version of dDCO	Key Changes
	<p>to 56 days and add flexibility, as requested by local authorities.</p> <p>Schedule 2 Rs, Part2 (Applications made under Rs):</p> <ul style="list-style-type: none"> <li>▪ R22 (Applications made under Rs) Text amended to extend specified time-period for notification of a decision from 42 days to 56 days.</li> <li>▪ R23 (Multiple discharging authorities) - Change made to add flexibility;</li> <li>▪ R24 (Further information): <ul style="list-style-type: none"> <li>○ R24(2) and R24(3) changes made to specified time periods from 5 business days to 10 days responding to concerns raised by local authorities.</li> <li>○ R24(3) to add flexibility, as requested by local authorities.</li> <li>○ R24(4) to extend time-period to 56 days.</li> </ul> </li> </ul>
<p>CR2 Version (Accepted CR2 Version)</p> <p>[CR2-009]</p> <p>(Tracked)</p>	<p>Article 6 (Limits of deviation) – New paragraph added at Article 6(2) with subsequent paragraphs renumbered. Article 6(2) disapplies maximum limits of vertical deviation for Work No. 43, so that where the pipe is buried in an embedded pipe bridge the minimum depth level provided for ground installation do not apply.</p> <p>New Article - Article 14 (Stopping up of public rights of way) with all subsequent Articles being renumbered. Article 14 is being inserted as the CR requires the permanent diversion of a short section of a footpath. In order to do that the existing route must be stopped up.</p> <p>Schedule 1 (Authorised Development) – New Works No. 43E inserted within Works No. 43 to enable a concrete embedded pipe bridge structure to carry the pipeline across the Alltami Brook, should the APV of an open-cut trenched crossing be found to be unacceptable by the ExA. Additionally, this change reflects changes sought as part of the CR.</p> <p>Schedule 2 Part 1 Rs:</p>

Version of dDCO	Key Changes
	<p>R4 Detailed design – Amended from R4(6) onwards to reflect the optionality between the crossing of Alltami Brook by open-cut trench installation method or by the embedded pipe bridge method. This change reflects the changes sought as part of the CR.</p> <p>Schedule: 6 (Public rights of way to be temporarily restricted and stopped up) – Title amended to reflect inclusion of ‘stopping up’ and creation of Parts (Part 1 – (Public rights of way to be temporarily restricted) and Part 2 (Public rights of way to be stopped up). These amendments reflect the changes sought as part of the CR.</p> <p>Schedule 7 (Land of which only TP may be taken) – Changes to the Plot numbers to reflect the changes sought as part of the CR.</p> <p>Schedule 11 (Removal of hedgerows) – Co-ordinates updated to reflect change in Order Limits, reflecting the changes sought as part of the CR.</p>
<p>DL4 Version [REP4-007] (Tracked)</p>	<p>Article 2 Definitions:</p> <p>“authorised development” - Additional text added for clarity;</p> <p>“CEMP” - Additional text added for clarity as agreed in ISH2;</p> <p>“commence” - Additional text added for clarity as agreed in ISH2 due to CWCC concerns that it was unclear that fencing to be erected was temporary;</p> <p>“chief officer of police” new definition added for clarity;</p> <p>“Outline Public Rights of Way Management Plan” (OPRoWMP) and “REAC” [Register of Environmental Actions and Commitments] deleted as the OPRoWMP is an appendix to the CEMP, whilst the REAC [Register of Environmental Actions and Commitments] is an appendix listing commitments in the ES. Neither document needs to be separately defined, nor certified.</p>

Version of dDCO	Key Changes
	<p>Article 45 (Certification of plans, etc.) Deletion of item (n) OPRoWMP, as it does not need to be separately defined or certified, for the reasons set out above.</p> <p>Schedule 1, Part 1 Rs,</p> <p>R1 (Interpretation) – “stage” added as a new definition and R3 (Stages of authorised development) - Insertion of new sub-paragraphs at R3(2) and R3(3), as agreed in ISH2 responding to FCC and CWCC concerns.</p> <p>R5 (Construction environmental management plan) – R5(2) deletion of item (d): Odour Management Plan, as it has been moved to the operational plan, as it applies to that phase.</p> <p>R9 (Contaminated land and groundwater) – Text added to R9(2), R9(3) and R9(5), as agreed in ISH2 to add clarity on who is responsible for undertaking the actions.</p> <p>R13 (Construction hours) – R13(5) definition of “start-up and shut-down activities” added in response to FCC and CWCC concerns over what activities are allowed in the start-up and shut-down periods.</p> <p>R17 (Operational and maintenance environmental management plan) R17(2) additional text added for clarity following discussion in ISH2 whether this plan was for approval.</p> <p>Schedule 7 (Land of which only TP may be taken) Part 1 (Land of which only TP may be taken) - Table amended at row 17 to add a new plot required following changes to narrow the access route in this location.</p>
<p>CR3 Version (Accepted CR3 Version)</p> <p>[CR3-009]</p> <p>(Tracked)</p>	<p>Schedule 1, Part 1 (Authorised Development) –</p> <ul style="list-style-type: none"> <li>▪ Insertion of new works being Work Nos. 3A and 3B due to Work No. 3 being divided to create a temporary section in new plot 1-06d, resulting in the need for Work Nos. 3A and 3B to be inserted.</li> <li>▪ Deletion of Work No’s. 41A and 41D to reflect the removal of the construction compound and</li> </ul>

Version of dDCO	Key Changes
	<p>working area at Shotton Lane, with these Work Nos being marked "Number not used" and consequential amendment to Work No 41B due to the removal of Work No's. 41A and 41D.</p> <p>Schedule 7, Part 1 (Land of which only TP may be taken) – Amendments to table to reflect the changes in the application of powers.</p> <p>Schedule 11, Part 1 (Removal of hedgerows) - Updated of points and removal of hedgerows no longer affected, to reflect the changes in the red line and consequential effects on hedgerows.</p>
<p>DL7 TCV (APV) [REP7-016] (Tracked)</p> <p><b>DL7 EPBV (In Bold).</b> [REP7-015]</p> <p>Comparison of APV submitted at DL7 with the EPBV, also submitted at DL7. (Tracked)</p>	<p>Pre-amble</p> <p>Insertion of reference to s131(5) of the PA2008 and SoS being satisfied in relation to CA of land forming part of an open space special category land is less than 200 square metres in extent. This addition was added following questions raised by the ExA at ISH3 and in ExQ3 and to reflect submission(s) made at DL7.</p> <p>Reference to s131 added to the paragraph that refers to powers conferred to SoS by the PA2008.</p> <p>Article 14 (Stopping up of public rights of way) deleted in Trenched Crossing Version, with all subsequent Articles renumbered, as article is not required in the APV of the dDCO as, without a bridged crossing of Alltami Brook, there is no need to stop up any section of any public right of way.</p> <p><b>Article 14 Retained in EPBV, with no need to renumber subsequent Articles.</b></p> <p>Schedule 1, Part 1 (Authorised Development)</p> <p>Work No. 43E, within Work No. 43 deleted, as Work No 43E is not required in the APV of the dDCO as, without a bridged crossing of Alltami Brook, this Work No. is not required.</p> <p><b>Work No. 43E has been retained in the EPBV, with all consequential references to Work No. 43E retained.</b></p> <p>Schedule 2, Rs:</p> <ul style="list-style-type: none"> <li>▪ R4 (Scheme design) – R4(6) and R4(7) amended, with sub-paragraphs below deleted,</li> </ul>

Version of dDCO	Key Changes
	<p>as the design requirements for the crossing of Alltami Brook have been separated in the APV of the dDCO , without a bridged crossing of Alltami Brook trenched crossing version.</p> <p><b>R4 (Scheme design) – R4(5), R4(6), R4(7) and R4(8) amended, to reflect Work No. 43E (EPBV) as the option selected for the crossing of the Alltami Brook securing details of the design and construction methodology of any works, together with a Flood Risk Assessment and a scheme setting out the alternative route and specification for the permanent diversion of the part of public right of way that lies close to this option, if required.</b></p> <ul style="list-style-type: none"> <li>▪ R9 (Contaminated land and groundwater) - Amended to reflect increased certainty sought by the EA as to the need for further investigation and where required remediation of land where assessment to date indicates a need for such work. <b>(Also included in the EPBV).</b></li> </ul> <p>Schedule 6 (public rights of way to be temporarily restricted) – deletion of reference to this schedule being in Parts and the complete deletion of Part 2, it would not be required in the APV of the dDCO as, without a bridged crossing of Alltami Brook there is no need to stop up any section of any rights of way. <b>(All aspects related to Schedule 6 above are retained in EPBV of the dDCO).</b></p> <p>Schedule 10 (PP) – All parts, with the exception of Parts 1 and 2, up-dated to reflect the status of the PP in the Applicant’s DL7 submission. <b>(Also included in the EPBV).</b></p>
<p>DL8 TCV (APV) [REP8-006] (Tracked) and DL8 EPBV [REP8-008]</p>	<p>Schedule 2, Part 1 - Rs, R3 (Stages of authorised development) amended by adding addition text at R(3)(1) and new text at R3(4) to reflect amendments previously agreed with CWCC but were omitted from the DL7 dDCO. R13 (Construction hours) – R13(5) definition of “trenchless construction techniques which cannot be interrupted” added to reflect amendments</p>

Version of dDCO	Key Changes
(Tracked)	<p>previously agreed with CWCC but were omitted from the DL7 dDCO.</p> <p>Schedule 10 Part 13 (For the protection of UKOP) – words “land or” omitted from paragraph 158(1)(a) as these words were not agreed by the Applicant and were included in error.</p> <p>Schedule 10 Part 17 (For the protection of National Highways Limited) – 2 Plot No’s added at Paragraph 234(1) as requested by National Highways in its DL7 submission.</p>
DL9 TCV (APV) [REP9-011] (Clean)	This version is the same as the TCV (APV) submitted at DL8.

9.3.10. In terms of SUs, only United Utilities Water Limited formally withdrew its objection/ concern in relation to the Proposed Development prior to the close of the Examinations. No other SUs objections/ concerns raised in regard to the Proposed Development were formally withdrawn by IPs by the close of the Examination. This was primarily due to the Applicant failing to agree in terms of:

- CA/ TP;
- the finalised wording of related side agreements being negotiated between the IPs; and
- the finalised wording of a number of PP or related side agreements being agreed.

9.3.11. With regard to the inclusion of any Crown land and or Crown rights, the powers sought in this regard can be granted as the necessary Crown authority has been provided. See:

- the Applicant’s DL7 covering letter [REP7-001] Appendix 2, which provides a copy of the necessary Crown authority, from the Ministry of Defence on behalf of the SoS for Defence.
- the submission of the Welsh Government [AS-081], on behalf of the Welsh Ministers, providing the necessary Crown authority; and
- the Crown Estate on behalf of The King's Most Excellent Majesty in Right of His Crown [REP9-016] providing the necessary Crown authority.

9.3.12. In the light of the above, the ExA is satisfied that the necessary Crown authority has been obtained in relation to Crown Land and/ or Crown



rights, consistent with the BoR [REP7-025], and in accordance with s135(1) and/ or s135(2) of the PA2008.

9.3.13. Bearing all of the above in mind, should the SoS for DESNZ be minded to make the DCO they will need to satisfy themselves that:

- the inclusion of PP as set out in Schedule 10
  - Part 6 (For the Protection of NR);
  - Part 10 (For the Protection of WWU);
  - Part 11 (For the Protection of DCWW);
  - Part 13 (For the Protection of UKOP);
  - Part 14 (For the Protection of Peel NRE);
  - Part 15 (For the Protection of Encirc Limited); and
  - Part 20 (For the Protection of Exolum),

of the rDCO attached at Appendix D of this Report or the wording of the PP contained in those parts of Schedule 10 of the DCO are as finally agreed between the Applicant and those interested parties (DCWW, Encirc Limited, Exolum, NR; Peel NRE Limited, WWU, UKOP) and are workable in practice; and

- NH, NR, UKOP, Peel NRE Limited and Encirc Limited are satisfied in relation to any necessary agreement(s) (including agreements entitled: Asset Protection; Commercial/ Commercial Framework; Deed of Understanding; Framework; Land; Licence; Property; Side; Technical; and/ or Wayleave) have been satisfactorily completed between these Applicant and the appropriate parties as listed above.

9.3.14. As indicated above, the provisions in respect of which the ExA have recommended changes are in relation to the Applicant's EPBV of the dDCO [REP8-007] in the rDCO at Appendix D, and the reasons for this, are set out in Table 6 below:

**Table 6: DCO Provisions Recommended to be Changed**

<b>Provision</b>	<b>Recommendations</b>	<b>Reason</b>
Article 6 Limits of deviation.	Retention of Article 6(2).	Article 6(2) refers to Work No 43E, which is not a Work No in the TCV (the APV) of the DCO.
Article 33 Modification of Part 1 of the 1965 Act.	Article 33(5)(b) add a space at the end of the text to be inserted between the word 'Order' and '202[●]', so it reads "Order 202[●]".	Typographical error and in the interests of clarity.
Article 35 Temporary use of land for carrying out	Article 35(4)(d) delete erroneous 'I' at end of sentence.	Typographical error and in the interests of clarity.

Provision	Recommendations	Reason
the authorised development.		
Schedule 1 Part 1 Authorised Development.	Replace text 'CO <sub>2</sub> ' with 'CO <sub>2</sub> ' throughout Part 1.	Typographical error and in the interests of clarity.
Schedule 1 Part 1 <i>Work No. 53.</i>	Work No. 53 (a) delete erroneous reference to subparagraph (x).	Typographical error and in the interests of clarity.
Schedule 1 Part 1 <i>Work Nos. 57E and 57(F).</i>	<i>Delete erroneous spaces between the words "River Gowy / south" to read "River Gowy/south".</i>	Typographical error and in the interests of clarity.
Schedule 1 Part 1 <i>Work Nos. 57N.</i>	(i) Work Nos. 57N(f) Delete erroneous spaces between the words "footpaths / alteration of layout..." to read "footpaths/alteration of layout..."; (ii) Work Nos. 57N (h) delete erroneous space between the wording "landscaping works/ landscaping..." to read "landscaping works/landscaping..."; and (iii) Work Nos. 57N (h) delete erroneous punctuation ";/" between the words "ditches" and "bunds" and replace with a comma to read "ditches, bunds..."	Typographical errors and in the interests of clarity.
Schedule 2, Contaminated land and groundwater.	Identify this heading as R9, as currently R number is missing and re-number all subsequent Rs.  Additionally, Paragraph numbering within R9 corrected	Numerical error in referencing this R as its number is missing; re-number the paragraph within this R so they correctly sequence; to ensure subsequent R's are correctly numbered; and in the interests of clarity.

<b>Provision</b>	<b>Recommendations</b>	<b>Reason</b>
Schedule 2, R9 Contaminated land and groundwater.	Add text to Part A – Stanlow at R9(3)(d); Part B– other sites identified as requiring further investigation at R9(5)(d); and Part C – unexpected contamination at R9(11) requiring a verification report following completion any remediation works required to be submitted to the relevant planning authority for approval and requiring such approval not to be unreasonably withheld or delayed.	In order to provide the relevant planning authorities an appropriate level of control to ensure any remediation required is undertaken in accordance with a scheme of remediation previously agreed under R9.
Schedule 2, R9 Contaminated land and groundwater.	R9(5)(b) delete the duplicate use of the word “set”.	Typographical error and in the interests of clarity.
Schedule 2, R9 Contaminated land and groundwater.	R9(6) re-order plot numbers so they read sequentially and correct erroneous reference to plot number “3+1” with plot number “3-16”.	Typographical errors and in the interests of clarity.
Schedule 2, R9 Contaminated land and groundwater.	Part C – unexpected contamination delete text after R9(11) as it is a duplicate of preceding text.	Duplication of text and in the interests of clarity.
Schedule 2 R13 Biodiversity Net Gain (BNG).	Add new R13 BNG after R12 Ecological surveys and renumber all subsequent R.  R13 BNG to read: “13.—(1) No development may commence until a scheme (which may comprise of up to 2 parts being one for within England and one for within Wales)	Requiring schemes of BNG, securing provision of BNG of 1% or greater for the priority habitats affected by the authorised development (as calculated using Natural England Biodiversity Metric 3.1), to be submitted to and approved by the relevant planning

Provision	Recommendations	Reason
	<p>securing the provision of BNG of 1% or greater for the priority habitats affected by the authorised development (as calculated using Natural England Biodiversity Metric 3.1), has been submitted to and approved in writing by the relevant planning authority. The scheme must set out measures to deliver and secure the maintenance for 30 years of the BNG provision.</p> <p>(2) Where such a scheme is approved under this requirement, the works set out in that scheme must be carried out in accordance with the approved scheme.</p> <p>(3) The approved scheme shall be maintained in accordance with the scheme of maintenance secured for 30 years of the BNG provision under sub-paragraph (2).</p>	<p>authority and for that scheme to be implemented and maintained in accordance with the details approved.</p>
Schedule 2, Part 2 Applications made under Rs - R23.	R23(1)(a) and (b) correct reference to R24 to read "R25".	Renumbered due to insertion of R13 BNG.
R25 Further Information.	R25(1) correct reference to R22 to read "R23".	Renumbered due to insertion of R13 BNG.
R26 Fees.	R26(2)(b) correct reference to R22 to read "R23".	Renumbered due to insertion of R13 BNG.

<b>Provision</b>	<b>Recommendations</b>	<b>Reason</b>
R27 Appeals.	R27(1)(b) correct reference to R24 to read "R25".	Renumbered due to insertion of R13 BNG.
R28 Outcome of appeals.	R27(1) and R27(2) correct reference to R26 to read "R27".	Renumbered due to insertion of R13 BNG.
Schedule 3 Streets subject to street works, Part 1 Streets subject to permanent street works.	Column (3) correct wording "Works for the installation and maintenance of access for Work No. 3 between the points marked 1AA, 1-A and 1-B and 1-C, 1-CC..." to read "Works for the installation and maintenance of access for Work No. 3 between the point marked 1-AA on sheet 1a and the points marked 1-A and 1-B and 1-C, 1-CC..."	To correct typographical errors, ensure correct plan sheet number is referred to and in the interests of clarity.
Schedule 4 New means of access Part 1 New permanent means of access from the public highway.	Column (2) street fifth entry correct from "Station Road" to read "Sealand Road"	Correct erroneous reference to incorrect road name.
Schedule 4 New means of access Part 3 New Private means of access.	Column (3), first entry, correct wording "Access over existing private roads between the points marked 1-AA, 1-A and 1-B..." to read "Access over existing private roads between the point marked 1-AA on sheet 1a and the points marked 1-A and 1-B..."	To ensure correct plan sheet number is referred to and in the interests of clarity.
Schedule 4 New means of access Part 3 New Private means of access.	Column (2) street thirty-third entry correct from "Station Road" to read "Sealand Road"	Correct erroneous reference to incorrect road name.
Schedule 5	Column (3), first entry, correct wording	To ensure correct plan sheet number is

<b>Provision</b>	<b>Recommendations</b>	<b>Reason</b>
Streets to be temporarily stopped up or restricted.	"Temporary full width closure to all traffic between the points marked 1-AA, 1-A and 1-B and 1-C, 1-CC and 1-D..." to read "Temporary full width closure to all traffic between the point marked 1-AA on sheet 1a and the points marked 1-A and 1-B and 1-C, 1-CC and 1-D..."	referred to and in the interests of clarity.
Schedule 7 Part 1 Land of which only TP may be taken.	Remove blank row between entry for Plot No 18-01 and entry for Plot No 18-13.	In the interests of clarity.
Schedule 7 Part 2 Land of which only TP for access may be taken.	Remove blank row between entry for Plot Nos: 13-13, 13-15, 13-17, 13-18, 14-02, 14-03; and entry for plot number 17-34.	In the interests of clarity.
Schedule 10 Protective Provisions Part 5 For the protection of Cadent Gas Limited.	Paragraph 51(1)(a) remove duplicate (a) and paragraph 59 correct spelling of "resonable" to read "reasonable"	Typographical error and in the interests of clarity.
Schedule 10 Protective Provisions Part 12 For the protection of United Utilities Water Limited.	(i) Paragraph 140 (Interpretation) relocate definition of "UU Water's undertaking" so it reads correct alphabetically.  (ii) Paragraph 140 (Interpretation) definition of "ground monitoring scheme", "ground subsidence event", "rights" "specified works" amended.	To reflect position of Protective Provisions the Applicant states are agreed between it and United Utilities Water Limited, as set out in Appendix 1 of the Applicant's Response to Rule 17 request for further information [REP9-012].

Provision	Recommendations	Reason
	(iii) Paragraph 150 (Co-operation) sub-paragraph (5) added.	
<p>Schedule 10 Protective Provisions Part 13 For the protection of United Kingdom Oil Pipelines Limited</p>	<p>(i) Paragraph 156 (Interpretation) definition of "deed(s) of consent" amended. (ii) Paragraph 158 (Acquisition or possession of land) at sub-paragraphs (1) and (2) wording amended.  (iii) Paragraph 160 (UKOP replacement facilities and rights) amended at sub-paragraph (1).  (iv) Paragraph 162 (Expenses and costs) amended at sub-paragraph (1), (1)(a) and (1)(g).  (v) Paragraph 164 (Co-operation) amended at sub-paragraph (1).</p>	<p>To reflect position of Protective Provisions the Applicant states are agreed between it and United Kingdom Oil Pipelines Limited, as set out in Appendix 1 of the Applicant's Response to Rule 17 request for further information [REP9-012].</p>
<p>Schedule 10 Protective Provisions Part 14 For the protection of Peel NRE Limited.</p>	<p>(i) Paragraph 169, 175 amended.</p>	<p>To reflect position of Protective Provisions the Applicant states are agreed between it and Peel NRE Limited, as set out in Appendix 1 of the Applicant's Response to Rule 17 request for further information [REP9-012].</p>
<p>Schedule 10 Protective Provisions Part 14 For the protection of Peel NRE Limited.</p>	<p>Paragraph 175(4) reference to R18 amended to R19.</p>	<p>Renumbered due to insertion of R13 BNG.</p>

<b>Provision</b>	<b>Recommendations</b>	<b>Reason</b>
Schedule 10 Protective Provisions Part 15 For the protection of Encirc Limited.	Paragraph 179 (rights of access) and 184 (rights of access – abnormal loads) e-mail address specified in 179(b) and 184(a) corrected	To correct an error and in the interests of clarity.
Schedule 10 Protective Provisions Part 15 For the protection of Encirc Limited.	Paragraph 184 (rights of access – abnormal loads) – blank (d) removed and subsequent (e) to (g) re-sequenced to read (d) to (f).	To correct an error and in the interests of clarity.
Schedule 10 Protective Provisions Part 20 For the protection of Exolum Pipeline System Limited.	(i) Paragraph 253 (Acquisition of Apparatus) amended at sub-paragraph (1). (ii) Paragraph 256 amended. (iii) Paragraph 294 deleted with references to it within preceding and subsequent paragraph amended accordingly.	To reflect position of Protective Provisions the Applicant states are agreed between it and Peel NRE Limited, as set out in Appendix 1 of the Applicant's Response to Rule 17 request for further information [REP9-012].

## **9.4. CONCLUSIONS**

9.4.1. The ExA has considered all iterations of the dDCO, as provided by the Applicant, from the application version [APP-024] to the EPBV [REP8-007] and the TCV (The APV) [REP9-011] submitted at DL8 and DL9 respectively and has considered the degree to which these final versions (the EPBV [REP8-007] and the TCV (The APV) [REP9-011]) addressed outstanding matters. A number of matters are the subject of recommendations in this chapter and are included in the rDCO in Appendix D of this report.

9.4.2. Taking all matters raised in this chapter and all matters relevant to the DCO raised in the remainder of this report fully into account, if the SoS for Energy Security and Net-Zero is minded to make the DCO, it is recommended that, subject to:

- the SoS being satisfied as to the completion of any necessary agreement(s) (including agreements entitled: Asset Protection; Commercial/ Commercial Framework; Deed of Understanding; Framework; Land; Licence; Property; Side; Technical; and/ or Wayleave) between the Applicant and NH, NR, UKOP, Peel NRE Limited and Encirc Limited; and



- the inclusion of PP as set out in Schedule 10,
  - Part 3 (For the Protection of NGET);
  - Part 4 (For the Protection of NGG);
  - Part 5 (For the Protection of Cadent);
  - Part 6 (For the Protection of NR);
  - Part 7 (For the Protection of CRT);
  - Part 10 (For the Protection of WWU);
  - Part 11 (For the Protection of DCWW);
  - Part 13 (For the Protection of UKOP);
  - Part 14 (For the Protection of Peel NRE);
  - Part 15 (For the Protection of Encirc Limited); and
  - Part 20 (For the Protection of Exolum),

of the rDCO attached at Appendix D of this Report or the wording of the PP contained in those parts of Schedule 10 of the DCO are as finally agreed between the Applicant and those interested parties (DCWW, Encirc Limited, Exolum, NR; Peel NRE Limited, WWU, UKOP) and are workable in practice,

the DCO should be made in the form set out in the rDCO, which can be located at Appendix D of this report.

# **10. SUMMARY OF FINDINGS AND CONCLUSIONS**

## **10.1. CONSIDERATION OF FINDINGS AND CONCLUSIONS**

- 10.1.1. As set out in paragraph 9.1.5 above, for the reasons set out in Chapter 5 the Examining Authority (ExA) acknowledges the objections raised by Natural Resources Wales (NRW) and based on the precautionary principle, considers the Applicant's preferred version of the draft Development Consent Order (dDCO) (the trenched crossing version) to be unacceptable. This is due to NRW's objection in regard to the potential risk of loss of water flow to ground within the Alltami Brook, with the potential to cause deterioration of the Wepre Brook waterbody, and the risk of non-compliance with the Water Framework Directive (WFD).
- 10.1.2. As a result of the above, the ExA finds the Applicant's preferred version of the dDCO (the trenched crossing version) to be unacceptable, as it would not accord with section (s) 105 of the Planning Act 2008 (PA2008), the National Policy Statement (NPS) EN-1 and NPS EN-4, the National Planning Policy Framework and relevant policies from the Local Development Plans, all of which are important and relevant considerations, which have been taken into account in this report.
- 10.1.3. Regardless of the above, the Applicant's alternative version of the dDCO (the Embedded Pipe Bridge Version) [REP8-007], submitted at D8, avoids a breach of the WFD, due to the nature and method of construction used. Indeed, NRW have confirmed it is satisfied that the Embedded Pipe Bridge Version crossing of the Alltami Brook would not breach the WFD. As such there would be no risk of loss of water flow to ground within the Alltami Brook and no potential to cause deterioration of the Wepre Brook waterbody as a result of this option.
- 10.1.4. Bearing the above in mind, the ExA's findings and conclusions, as set out below, are based solely on the Applicant's alternative version of the dDCO (the Embedded Pipe Bridge Version [REP8-007]).
- 10.1.5. In relation to section (s) 105 of the Planning Act 2008 (PA2008), the ExA concludes that making the recommended Development Consent Order (rDCO) would be in accordance with National Policy Statement (NPS) EN-1 and NPS EN-4, as well as the emerging draft NPS's (dNPS) (dNPS EN-1 (March 2023) and dNPS EN-4 (March 2023)). It would also accord with the National Planning Policy Framework (September 2023) and relevant policies from the Local Development Plans, which are also important and relevant in the consideration of the Proposed Development and which have been taken into account in this report. The ExA also had regard to the Local Impact Reports produced by both Flintshire County Council and Cheshire West and Chester Borough Council in reaching its conclusion.
- 10.1.6. Whilst the Secretary of State (SoS) for the Department of Energy Security and Net Zero (DESNZ) is the competent authority under The

Conservation of Habitats and Species Regulations 2017, and will make the definitive assessment, the ExA concludes that subject to:

- securing the description of the Authorised Development in Schedule 1 (Authorised Development) of the Development Consent Order (DCO);
- imposing an additional requirement to secure ecological 'enhancements' in Wales and England (as listed below at Requirement (R) 13 (Ecological Enhancements));
- imposing R9 (Contaminated Land and Groundwater) in Schedule 2 of the DCO, as recommended to be amended;
- imposing the other Rs listed within Schedule 2, especially:
  - R4 (Scheme Design);
  - R5 (Construction Environmental Management Plan);
  - R8 (Surface Water Drainage);
  - R11 (Landscape and Ecological Mitigation Plan);
  - R13 (Ecological Enhancements); and
  - R19 (Decommissioning Environmental Management Plan),

any adverse effect on the integrity of the European sites and their features from the Proposed Development when considered alone or in combination with other plans or projects can be excluded. The ExA has taken this finding into account in reaching its recommendation.

- 10.1.7. The ExA finds the information and analysis provided in the Environmental Statement documentation satisfies The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. It also finds reasonable alternatives have been considered and reported, and the Applicant's final selection for the routing of the pipeline and locations of the Above Ground Installations and Block Valve Stations are justified.
- 10.1.8. The ExA has had regard to the Public Sector Equality Duty throughout the Examination and in producing this report. The Proposed Development would not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, there would be no breach of the Public Sector Equality Duty.
- 10.1.9. The ExA further considered whether the determination of this application in accordance with the NPSs, as well as other material considerations, which are important and relevant, would lead the United Kingdom to be in breach of any of its international obligations where relevant, including the Climate Change Act 2008 and the Paris Agreement 2015. It concludes that, in all respects, this would not be the case.
- 10.1.10. The Proposed Development is consistent with, and supportive of, the Government achieving its decarbonisation objectives, whilst delivering national, regional and local economic benefits, at scale. The ExA affords very great weight to these benefits.
- 10.1.11. With regard to designated and non-designated heritage assets and in consideration of Regulation 3 of The Infrastructure Planning (Decisions)

Regulations 2010, the ExA has found the Proposed Development would result in neutral impact on designated heritage assets and harm to non-designated heritage assets, albeit the level of harm likely to occur to the non-designated heritage assets has been found to be limited.

- 10.1.12. Despite the harm to the non-designated heritage assets, the ExA has found that harm would be outweighed by the very great benefits from the Proposed Development assisting the UK in achieving Net-Zero and meeting its decarbonisation objectives, as well as providing significant national, regional and local economic benefits, at scale, for future generations. As such, the Proposed Development would be in alignment with NPS EN-1, assist in meeting the need identified in the emerging dNPS EN-1 and be in compliance with Local Development Plan policies within the jurisdiction of both Flintshire County Council and Cheshire West and Chester Borough Council.
- 10.1.13. In terms of biodiversity and bearing in mind Regulation 7 of The Infrastructure Planning (Decisions) Regulations 2010, The ExA is satisfied that biodiversity, ecological and nature conservation issues have been adequately assessed and aligns with the requirements of NPS EN-1, draft NPS EN-1 and all other important and relevant policy considerations, including the Local Development Plans of the areas within which the Proposed Development lies, have been met. Indeed, it considers biodiversity net gain arising from the Proposed Development, albeit at 1%, will enhance biodiversity, as well as assist in enhancing ecological and nature conservation effects.
- 10.1.14. When considering all representations received, there are no other important and relevant matters that would individually or collectively outweigh the identified benefits and lead to a different recommendation from that below. Overall, the significant benefits to be gained from the Proposed Development strongly outweigh the identified disbenefits.
- 10.1.15. In terms of Compulsory Acquisition (CA) and Temporary Possession (TP) powers requested by the Applicant, the ExA concludes that the Proposed Development for which the land and rights are sought align with national policy, as set out in the NPSs, and the dNPSs, which are important and relevant, and that the NPSs and dNPSs identify a national need for pipelines of the nature sought by the Proposed Development.
- 10.1.16. The need to secure the land and rights required, and to construct the Proposed Development within a reasonable commercial timeframe, represent just one of the significant public benefits identified above. The private loss to those affected is mitigated to a degree through the fact that the construction period would be limited, and the Applicant is seeking to acquire the minimum possible rights and interests that they would need to construct and maintain the Proposed Development, whilst providing appropriate levels of mitigation.
- 10.1.17. The ExA is satisfied the Applicant has explored all reasonable alternatives to the CA of land, rights and interests sought and there are no alternatives that ought to be preferred. Furthermore, it is satisfied that

adequate and secure funding would be available to enable CA within the statutory period following the Order being made.

- 10.1.18. With regard to the CA of land forming part of open space special category land, the ExA is satisfied that both the subsoil corridor for the pipeline, which is being constructed in this location using trenchless construction methods, together with the minor surface works for the new drainage connection amount to less than 200 square metres in extent and no exchange of other land is necessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.
- 10.1.19. With the above in mind, the ExA is satisfied that an order granting development consent for the Proposed Development would not be subject to special parliamentary procedure, as set out in s131(3) of the PA2008, due to the fact the Proposed Development would comply with both limbs of the test, as set out in s.131(5) of the PA2008. Additionally, the ExA is satisfied the Applicant has recorded this fact, and the subsection concerned, within the rDCO (see page 4 of the final versions of the dDCO).
- 10.1.20. Furthermore, the ExA is satisfied that open space within the Order land, when burdened with any new rights authorised for CA under the terms of this Order, will be no less advantageous than it was before such acquisition, to the persons whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(3) of the 2008 Act applies.
- 10.1.21. For the reason set out above, the ExA is satisfied that an order granting development consent for the Proposed Development would not be subject to special parliamentary procedure, as set out in s132(2) of the PA2008. Furthermore, the ExA is satisfied the Applicant has recorded this fact, and the subsection concerned, within the rDCO. (see page 4 of the final versions of the dDCO).
- 10.1.22. In terms of Crown Land, three Crown bodies identified in the Book of Reference at the close of the Examination, being the Crown Estate, the SoS for Defence and the Welsh Ministers, have provided letters of agreement/ consent and as such the CA powers requested are considered to satisfy the relevant tests of the PA2008 in this regard.
- 10.1.23. In addition to all of the above, the ExA considers the interference with Human Rights would be lawful, necessary, proportionate and justified in the public interest and has been considered as part of a fair process for which compensation is available for loss of property rights.
- 10.1.24. With regard to all other matters and representations received, the ExA has found no important and relevant matters that would individually or collectively lead to a different recommendation to that below.
- 10.1.25. In relation to s105 of the PA2008, and with the mitigation proposed through the rDCO in Appendix D to this report, having regard to the local impact reports and all important and relevant matters there is nothing to

indicate that the application should be decided other than in accordance with the:

- Local Development Plans for the areas within which the Proposed Development lies;
- the NPSs and emerging draft NPSs, which are important and relevant matters; and
- other important and relevant policy considerations.

10.1.26. Having considered the Proposed Development against all of the above, the ExA finds that there are no adverse impacts arising from the Proposed Development that would outweigh its benefits.

10.1.27. It should be noted the ExA has considered the Proposed Development against the dNPSs (March 2023) but notes the dNPSs were updated as of November 2023. Irrespective of this, the ExA considers there are no changes within the dNPSs (November 2023), when compared to the dNPSs (March 2023) that would affect its recommendation.

## **10.2. RECOMMENDATION**

10.2.1. The ExA's findings and conclusions on important and relevant matters are set out in this report and its recommendation is:

(i) the Applicant's preferred version of the dDCO (the trenched crossing version) not be made for the reasons set out above.

(ii) The Applicant's alternative version of the dDCO (the Embedded Pipe Bridge Version) [REP8-007]), which the ExA has taken forward as the rDCO, be made, subject to the SoS for the DESNZ satisfying themselves on the following matters:

- Whether the most up to date version of the dNPSs (November 2023) (dNPS EN-1 and dNPS EN-4) are important and relevant considerations in its determination of the Proposed Development and if so, determining the proposed development against those dNPSs.
- In the event of the dNPS's (November 2023) (dNPS EN-1 and dNPS EN-4) being designated prior to the determination of the Proposed Development, that it has considered whether they are important and relevant considerations in the determination of this nationally significant infrastructure project and, if so, the Proposed Development has been considered in the light of the designated NPSs.
- Whether the National Planning Policy Framework (December 2023) is an important and relevant considerations in the determination of the Proposed Development and if so, determining the proposed development against that National Planning Policy Framework.
- The Protective Provisions in Schedule 10 of the rDCO, as set out in Appendix D of this report, are as finally agreed between the Applicant and the Interested Parties (IPs) listed below and are workable in practice:
  - National Grid Electricity Transmission PLC (NGET) in regard to Part 3 (For the Protection of National Grid as electricity undertaker;

- National Grid Gas PLC (NGG) in regard to Part 4 (For the Protection of National Grid as gas undertaker);
  - Cadent Gas Limited (Cadent) in regard to Part 6 (For the Protection of Cadent);
  - Network Rail (England and Wales) (NR) in regard to Part 6 (For the Protection of NR);
  - The Canal; and River Trust (CRT) in regard to Part 7 (For the Protection of CRT);
  - Wales and West Utilities, in regard to Part 10 (For the Protection of Wales and West Utilities);
  - Dŵr Cymru Welsh Water in regard to Part 11 (For the Protection of Dŵr Cymru Welsh Water);
  - United Kingdom Oil Pipelines Limited (UKOP) in regard to Part 13 (For the Protection of UKOP);
  - Peel NRE in regard to Part 14 (For the Protection of Peel NRE Limited);
  - Encirc Limited in regard to Part 15 (For the Protection of Encirc Limited); and
  - Exolum Pipeline Systems Limited in regard to Part 20 (For the Protection of Exolum Pipeline Systems Limited).
- The completion of any side agreement(s) between the Applicant and the relevant IP, as listed below, and those IPs are satisfied in this regard:
    - NGET and NGG (regarding Side Agreements);
    - Cadent (regarding Side Agreements);
    - NR (regarding any Framework Agreement/ Deed of Understanding, Property/ Asset Protection Agreement/ Wayleave Agreement);
    - CRT (regarding any Voluntary Land Agreements);
    - Wales and West Utilities (regarding any Voluntary Land Agreements);
    - UKOP (regarding any Licence Agreement);
    - Peel NRE (regarding any Commercial Framework Agreement);
    - Encirc Limited (regarding any Land, Side, Technical or Other Agreements); and
    - National Highways – (regarding any Commercial Agreement).

10.2.2. Subject to the above, the ExA considers that the Proposed Development, in the form of the Applicant's alternative version of the dDCO (the Embedded Pipe Bridge Version) [REP8-007]), meets the tests in s105 of the PA2008. On that basis, it recommends that the SoS for the DESNZ makes the HyNet Carbon Dioxide Pipeline Order in the form attached at Appendix D to this report.

## **APPENDICES**

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## **APPENDIX A: Schedule of Authorised Development and Ancillary Works**

## **Authorised Development**

A nationally significant infrastructure project as defined in sections 14 and 21 of the 2008 Act, comprising:

### **In the Borough of Cheshire West and Chester**

Work No. 1: Construction of an AGI at Ince within the location shown on Sheet 1 of the Works Plans, including—

(a) a fenced compound area containing:

- (i) security lighting;
- (ii) electrical transformer;
- (iii) parking;
- (iv) cathodic protection measures;
- (v) CCTV cameras, intrusion detection systems and access control systems;
- (vi) PIG launcher and receiver facilities;
- (vii) connection points;
- (viii) analyser house;
- (ix) control mechanisms and electrical and instrumentation kiosk;
- (x) hard standing;
- (xi) above ground pipework, valves and instrumentation;

(b) above ground control boxes;

(c) below ground pipework;

(d) below ground cables and cable ducts;

(e) hard standing;

(f) drainage works, including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and

(g) landscaping.

Work No. 1A: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 1 of the Works Plans, including—

(a) office, welfare and security facilities;

(b) a parking area;

(c) plant and materials storage;

(d) waste processing and management areas; and

(e) fencing and gating.

Work No. 2: The creation and use of a permanent vehicular access to the authorised development, from Elton Lane (private road), within the location shown on Sheet 1 of the Works Plans, including— (a) improvement of road surfacing and provision of new hard surfacing; (b) creation of a new bellmouth junction and visibility splays; and (c) installation of utilities.

Work No. 3: The creation and use of a permanent vehicular access to the authorised development, from the Pool Lane/Oil Sites Road roundabout via the unnamed road (private road and via the unnamed road (private road) from Ash Road, within the locations shown on Sheets 1 and 1a of the Works Plans, including— (a) improvement of road surfacing and provision of new hard surfacing; (b) creation of a new bellmouth junction and visibility splays; and (c) installation of utilities.

Work No. 3A: The creation and use of a temporary vehicular access to the authorised development, from Work No. 3 on the unnamed road, within the location shown on Sheets 1 of the Works Plans, including improvement of road surfacing and provision of new hard surfacing.

Work No. 3B: The creation and use of a permanent vehicular access to the authorised development, from Ash Road within the location shown on Sheets 1 of the Works Plans, including improvement of road surfacing and provision of new hard surfacing.

Work No. 4: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 994metres in length and with an external diameter of 20 inches (508 millimetres) between Work No. 1 and Work No. 5 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems. As shown on Sheets 1 and 2 of the Works Plans.

Work No. 5: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 893metres in length and with an external diameter of 20 inches (508 millimetres) between Work No. 4 and Work No. 6 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) Installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and

- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems. As shown on Sheets 2 and 3 of the Works Plans.

Work No. 5A: Creation and use of a temporary construction access from Chester Services, within the location shown on Sheet 2 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and  
(b) improvement of road surfacing and provision of new hard surfacing.

Work No. 5B: Creation and use of a temporary construction access from A5117, within the location shown on Sheet 2 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway; and  
(b) improvement of road surfacing and provision of new hard surfacing.

Work No 5C: The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheets 1 and 2 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

Work No. 6: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.6km in length and with an external diameter of 20 inches (508 millimetres) between Work No. 5 and Work No. 7 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;  
(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;  
(c) installation of underground telecommunications cable;  
(d) construction of a haul road, temporary construction accesses and working areas and laydown area;  
(e) landscaping, ecological and environmental works; and  
(f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems. As shown on Sheets 2, 3 and 4 of the Works Plans.

Work No. 6A: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 2, 3 and 4 of the Works Plans, including—

- (a) office, welfare and security facilities;  
(b) a parking area;  
(c) plant and materials storage;  
(d) waste processing and management areas; and

(e) fencing and gating.

Work No. 6B: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 2, 3 and 4 of the Work Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

Work No. 6C: Creation and use of a temporary construction access from Old Cryers Lane, within the location shown on Sheets 3 and 4 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 6D: Creation and use of a temporary construction access from Cryers Lane, within the location shown on Sheets 3 and 4 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) improvement of road surfacing and provision of new hard surfacing; and
- (c) creation of visibility splays.

Work No. 6E: Creation and use of a temporary construction access from Cryers Lane, within the location shown on Sheets 3 and 4 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing;

Work No. 7: Construction of two underground Carbon Dioxide (CO<sub>2</sub>) pipelines with respective external diameters of 20 inches (508 millimetres) and 36 inches (914.4 millimetres), and respective approximate lengths of 266 metres and 251 metres, from Work No. 6 to Work No. 9 and from Work No.9 to Work No.11, including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems. As shown on Sheets 3 and 4 of the Works Plans.

Work No. 8: The creation and use of a temporary vehicular access to the authorised development, from A5117 within the location shown on Sheet 1 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing.

Work No. 9: Construction of an AGI at Stanlow within the location shown on Sheet 3 of the Works Plans, including—

- (a) a fenced compound area containing
  - (i) security lighting;
  - (ii) electrical transformer;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) PIG launcher and receiver facilities;
  - (vii) isolation valves;
  - (viii) above ground pipework, valves and instrumentation;
  - (ix) connection points;
  - (x) analyser house;
  - (xi) control mechanisms and electrical and instrumentation kiosk;
  - (xii) hard standing.
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) below ground cables and cable ducts;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

Work No. 9A: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 3 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

Work No. 10: The creation and use of a permanent vehicular access to the authorised development, from Pool Lane within the location shown on Sheet 3 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

Work No. 11: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.1km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 7 and Work No. 12 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems. As shown on Sheets 3, 4 and 5 of the Works Plans.

Work No. 12: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 341 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 11 and Work No. 13 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems. As shown on Sheets 4 and 5 of the Works Plans.

Work No. 12A: Creation and use of a permanent access from Cryers Lane, within the location shown on Sheet 5 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing;

Work No. 13: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.3km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 12 and Work No. 14 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems. As shown on Sheets 5 and 6 of the Works Plans.

Work No. 13A: The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheets 5 and 6 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

Work No. 14: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 419 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 13 and Work No. 15 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems. As shown on Sheets 5 and 6 of the Works Plans.

Work No. 14A: Creation and use of permanent access from Picton Lane, within the location shown on Sheets 5 and 6 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.



Work No. 15: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.5km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 14 and Work No. 16 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems. As shown on Sheets 6 and 7 of the Works Plans.

Work No. 15A: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 6 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

Work No. 15B: Creation and use of a temporary construction access from Picton Lane, within the location shown on Sheet 6 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) improvement of road surfacing and provision of new hard surfacing; and
- (c) creation of visibility splays.

Work No. 15C: Creation and use of a permanent access from Picton Lane, within the location shown on Sheet 6 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 16: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 386metres in length and with an external

diameter of 36 inches (914.4 millimetres) between Work No. 15 and Work No. 17 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheet 7 of the Works Plans.

Work No. 16A: Creation and use of a permanent access from Picton Lane, within the location shown on Sheet 7 of the Work Plans, including improvement of road surfacing and provision of new hard surfacing (excluding on the Bridleway).

Work No. 16B: Creation and use of a temporary construction access from Picton Lane, within the location shown on Sheet 7 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 17: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 807 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 16 and Work No. 18 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); as shown on sheets 7 and 8 of the Works Plans.

Work No. 17A: Creation and use of a permanent access from Wervin Road, within the location shown on Sheet 7 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 17B: Creation and use of a permanent access from Wervin Road, within the location shown on Sheet 7 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 18: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 352 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 17 and Work No. 19 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheet 8 of the Works Plans.

Work No. 18A: Creation and use of a temporary construction access from Caughall Road, within the location shown on Sheet 8 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 19: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.4km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 18 and Work No. 22 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and

- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheets 8 and 9 of the Works Plans.

Work No. 19A: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 8 of the Work Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

**Work No. 19B**: Creation and use of a temporary construction access from Croughton Road, within the location shown on Sheet 8 of the Works Plans, including—

- (a) creation of a junction with the public highway; and
- (b) construction of road surfacing and provision of new hard surfacing.

Work No. 19C: Creation and use of a temporary access from Chorlton Lane, within the location shown on Sheet 8 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 20: Construction of a BVS at Rock Bank, at the location shown on Sheet 8 of the Works Plans, including—

- (a) a fenced compound area containing
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk;
  - (ix) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) hard standing;

- (e) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (f) landscaping.

Work No. 20A: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 8 of the Work Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

Work No. 21: The creation and use of a permanent vehicular access to the authorised development, from Chorlton Lane within the location shown on Sheet 8 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

Work No. 22: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 291 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 19 and Work No. 23 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheet 9 of the Works Plans.

Work No. 23: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 545 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 22 and Work No. 24 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;

- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheet 9 of the Works Plans.

Work No. 23A: Creation and use of a temporary construction access from Station Road, within the location shown on Sheet 9 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 23B: The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 9 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

Work No. 24: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 286 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 23 and Work No. 25 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheet 9 of the Works Plans.

Work No. 24A: Creation and use of a temporary construction access from Station Road, within the location shown on Sheets 9 and 10 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 25: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.9km in length and with an external diameter of

36 inches (914.4 millimetres) between Work No. 24 and Work No. 28 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheets 9, 10 and 11 of the Works Plans.

Work No. 25A: Creation and use of a permanent access from Station Road, within the location shown on Sheet 10 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 26: Construction of a BVS at Mollington, at the location shown on Sheet 10 and 11 of the Works Plans, including—

- (a) a fenced compound area containing
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk;
  - (ix) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) hard standing;
- (e) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (f) landscaping.

Work No. 26A: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 10 and 11 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

Work No. 27: The creation and use of a permanent vehicular access to the authorised development, from Overwood Lane within the location shown on Sheet 11 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

Work No. 28: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 2.4km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 25 and Work No. 29 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheets 10, 11 and 12 of the Works Plans.

Work No. 28A: Creation and use of a temporary construction access from Overwood Lane, within the location shown on Sheets 10 and 11 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 28B: Creation and use of a permanent access from the A540, within the location shown on Sheet 11 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 28C: Creation and use of a permanent access from Hermitage Road, within the location shown on Sheet 12 of the Works Plans, including—



- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

### **In the County of Flintshire**

Work No. 29: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 625 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 28 and Work No. 30 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheet 12 of the Works Plans.

Work No. 29A: The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 12 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas. Work No. 30: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.2km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 28 and Work No. 31 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheets 12 and 13 of the Works Plans.

Work No. 30A: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 12 and 13 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

Work No. 30B: Creation and use of a permanent access from the A548, within the location shown on Sheet 12 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 30C: Creation and use of a permanent access from the A548, within the location shown on Sheets 12 and 13 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of bridge and road surfacing and provision of new hard surfacing.

Work No. 30D: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 13 and 14 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) waste processing and management areas; and
- (h) fencing and gating.

Work No. 30E: Creation and use of a temporary construction access from the A548, within the location shown on Sheets 13 and 14 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) improvement of road surfacing and provision of new hard surfacing; and
- (c) creation of visibility splays.

Work No. 31: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 873 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 30 and Work No. 32 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts, cathodic protection cabinet and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheets 13 and 14 of the Works Plans.

Work No. 31A: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 14 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

Work No. 31B: Creation and use of a permanent access from the B5129, within the location shown on Sheet 14 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) improvement of road surfacing and provision of new hard surfacing; and
- (c) creation of visibility splays.

Work No. 31C: The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 14 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

Work No. 32: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 595 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 31 and Work No. 33 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit

- works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheets 14 and 15 of the Works Plans.

Work No. 32A: Creation and use of a temporary construction access from the B5129, within the location shown on Sheets 14 and 15 of the Work Plans, including improvement of road surfacing and provision of new hard surfacing.

Work No. 33: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 2.5km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 32 and Work No. 34 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheets 14, 15 and 16 of the Works Plans.

Work No. 33A: Creation and use of a permanent access from Chester Road East, within the location shown on Sheet 15 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 33B: Creation and use of a permanent access from Moor Lane, within the location shown on Sheet 15 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 33C: Creation and use of a permanent access from Chester Road East, within the location shown on Sheets 15 and 16 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 34: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 524 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 33 and Work No. 35 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works including removal and reinstatement of the bund along Chester Road; and
- (f) works including diversion or alteration of existing watercourse, creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheet 16 of the Works Plans.

Work No. 34A: Creation and use of a temporary construction access from Glendale Avenue, within the location shown on Sheet 16 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) provision of temporary public right of way diversion, including fencing and signage; and
- (c) improvement of road surfacing and provision of new hard surfacing.

Work No. 35: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.9km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 34 and Work No. 38 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and

- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheets 16 and 17 of the Works Plans.

Work No. 35A: Creation and use of a permanent access from Gladstone Way, within the location shown on Sheet 16 and 17 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 36 – Construction of a BVS at Aston Hill, at the location shown on Sheet 16 and 17 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk;
  - (ix) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) hard standing;
- (e) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (f) landscaping.

Work No. 36A: The creation and use of a temporary logistics and construction compound for use during the construction of the authorised development, within the location shown on Sheet 17 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

Work No. 37: The creation and use of a permanent vehicular access to the authorised development, from Lower Aston Hall Lane within the location shown on Sheet 17 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and

(c) installation of utilities.

Work No. 38: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 377 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 35 and Work No. 39 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheet 17 of the Works Plans.

Work No. 38A: Creation and use of a temporary construction access from Lower Aston Hall Lane, within the location shown on Sheet 17 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 38B: Creation and use of a permanent construction access from Lower Aston Hall Lane, within the location shown on Sheet 17 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 39: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 402 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 38 and Work No. 40 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and

- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheet 17 of the Works Plans.

Work No. 39A: Creation and use of a temporary construction access from Old Aston Hill, within the location shown on Sheet 17 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing

Work No. 39B: The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 17 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas. Work No. 40: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 561 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 39 and Work No. 41 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheets 17 and 18 of the Works Plans.

Work No. 40A: Creation and use of a temporary construction access from Old Aston Hill, within the location shown on Sheets 17 and 18 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 40B: The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheets 17 and 18 the Work Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

Work No. 40C: Creation and use of a permanent access from Church Lane, within the location shown on Sheet 17 of the Works Plans, including—



- (a) creation of new bellmouth junction; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 41: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.1km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 40 and Work No. 42 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheets 17 and 18 of the Works Plans.

Work No. 41A: Number not used Work No. 41B: Creation and use of a temporary construction access from the B5125, within the location shown on Sheet 18 of the Works Plans, including—

- (a) construction of a temporary construction access and working area;
- (b) improvement of an existing junction with the public highway;
- (c) improvement of road surfacing and provision of new hard surfacing; and
- (d) creation of visibility splays.

Work No. 41C: Creation and use of a permanent access from the B5125, within the location shown on Sheet 18 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 41D: Number not used Work No. 42: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.8km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 41 and Work No. 43 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;

- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works;
- (f) alteration or removal of existing structures; and
- (g) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheets 18 and 19 of the Works Plans.

Work No. 42A: Creation and use of a permanent access from Green Lane, within the location shown on Sheet 18 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 43: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 611 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 42 and Work No. 44 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheet 19 of the Works Plans.

Work No. 43A: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 19 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

Work No. 43B: Creation and use of a permanent access from Pinfold Lane, within the location shown on Sheet 19 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 43C: Creation and use of a temporary construction access from unnamed road, within the location shown on Sheet 19 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 43D: The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 19 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

Work No. 43E: within Work No 43, a concrete, embedded pipe bridge structure to carry the pipeline across the Alltami Brook, being formed of a concrete span and abutments, with the pipeline buried within the structure of the bridge under a removable concrete slab, and including;

- a) ground works including alteration of ground levels, ground stabilisation;
- b) piling for abutments if required;
- c) fencing, gating, handrails and/or fall protection and other security measures;
- d) surface water drainage within the pipe bridge structure; and
- e) creation of a diverted public right of way route (including where required, alteration of ground levels and ground stabilisation).

Work No. 44: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 2.5km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 43 and Work No. 47 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheets 19 and 20 of the Works Plans.

Work No. 44A: The creation and use of a permanent access to the authorised development including creation and/or improvement of road surfacing and provision of new hard surfacing; and a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 19 and 20 of the Work Plans, including as temporary works—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

Work No. 44B: Creation and use of a temporary construction access from the B5125, within the location shown on Sheet 20 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 44C: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 20 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

Work No. 45: Construction of an AGI at Northop Hall, within the location shown on Sheet 20 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) electrical transformer;
  - (iii) parking;
  - (iv) CCTV cameras, intrusion detection systems and access control systems;
  - (v) PIG launcher and receiver facilities;
  - (vi) isolation valves;
  - (vii) connection points;
  - (viii) analyser house;
  - (ix) control mechanisms and electrical and instrumentation kiosk;
  - (x) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) below ground cables and cable ducts;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and

(g) landscaping.

Work No 45A: The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 20 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

Work No. 45B: The creation and use of a permanent vehicular access to the authorised development, from B5125 within the location shown on Sheet 20 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

Work No. 46: The creation and use of a temporary vehicular construction access to the authorised development, from B5125 within the location shown on Sheet 20 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing; and
- (b) creation of a new bellmouth junction and visibility splays.

Work No. 47: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 2.4km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 44 and Work No. 50 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheets 20, 21 and 22 of the Works Plans.

Work No. 47A: Creation and use of a temporary construction access from Starkey Lane, within the location shown on Sheet 21 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 47B: Creation and use of a temporary construction access from Starkey Lane, within the location shown on Sheet 21 and 22 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

Work No. 48: Construction of an AGI at Flint, within the location shown on Sheet 22 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) electrical transformer;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) PIG launcher and receiver facilities;
  - (vii) isolation valves;
  - (viii) connection points;
  - (ix) analyser house;
  - (x) control mechanisms and electrical and instrumentation kiosk
  - (xi) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) below ground cables and cable ducts;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

Work No. 48A: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 22 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

Work No. 49: The creation and use of a permanent vehicular access to the authorised development, from Allt-Goch Lane (east) within the location shown on Sheet 22 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

Work No. 50: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 422 metres in length and with an external diameter of 24 inches (609.6 millimetres) between Work No. 47 and the existing pipeline including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works;
- (f) works to connect to the existing pipeline and
- (g) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s). as shown on Sheets 22 and 23 of the Works Plans.

Work No. 51 – Construction of a BVS at Cornist Lane, at the location shown on Sheet 25 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk;
  - (ix) hard standing;
- (b) below ground pipework;
- (c) works to connect to the existing pipeline;
- (d) above ground control boxes;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

Work No. 51A: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 25 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;

- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

Work No. 51B: The creation and use of a temporary working area for the use during the construction of Work No. 51, within the location shown on Sheets 24 and 25 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

Work No. 52: The creation and use of a permanent vehicular access to the authorised development, from Cornist Lane within the location shown on Sheet 25 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

Work No. 53: – Construction of a BVS at Pentre Halkyn at the location shown on Sheet 27 and 28 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk; and
  - (ix) hard standing;
- (b) below ground pipework;
- (c) works to connect to the existing pipeline;
- (d) above ground control boxes;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

Work No. 53A: The creation and use of a temporary logistics and construction compound for use during the construction of the authorised development, within the location shown on Sheets 27 and 28 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) plant storage;



- (e) waste processing and management areas; and
- (f) fencing and gating.

Work No. 53B: The creation and use of a temporary working area for the use during the construction of Work No. 53, within the location shown on Sheets 27 and 28 the Work Plans including construction of a haul road, temporary construction accesses and working areas and laydown areas.

Work No. 54: The creation and use of a permanent vehicular access to the authorised development, from B5121 within the location shown on Sheet 27 and 28 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

Work No. 55: Construction of a BVS at Babell, at the location shown on Sheet 29 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk;
  - (ix) hard standing;
- (b) below ground pipework;
- (c) works to connect to the existing pipeline;
- (d) above ground control boxes;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

Work No. 55A: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 29 and 30 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

Work No. 55B: The creation and use of a temporary working area for the use during the construction of Work No.55, within the location shown on Sheets 29 and 30 the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

Work No. 56: The creation and use of a permanent vehicular access to the authorised development, from Racecourse Lane within the location shown on Sheet 29 and 30 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

Work No 57: the provision of environmental and ecological mitigation for the authorised development including landscaping, woodland and hedgerow planting, scrub planting, riparian planting, habitat creation, fencing and gating, comprising:

### **In the Borough of Cheshire West and Chester**

Work No. 57A: Creation of environmental mitigation, east of Cryers Lane, at the location shown on Sheets 2, 3 and 4 of the Works Plans, including woodland planting.

Work No. 57B: Creation of environmental mitigation south-west of Stanlow AGI, at the location shown on Sheets 3 and 4 of the Works Plans, including woodland planting.

Work No. 57C: Creation of environmental mitigation north of the M56 at the location shown on Sheets 4 and 5 of the Works Plans, including woodland planting.

Work No. 57D: Creation of environmental mitigation south of the M56 at the location shown on Sheets 4 and 5 of the Works Plans, including woodland planting.

Work No. 57E: Creation of environmental mitigation east of River Gowy / south of M56 at the location shown on Sheets 5 and 6 of the Works Plans, including woodland planting.

Work No. 57F: Creation of environmental mitigation west of River Gowy / south of M56 at the location shown on Sheets 5 and 6 of the Works Plans, including –

- (a) woodland planting to create new woodland block west of River Gowy; and
- (b) riparian planting along western bank of River Gowy and connected ditch.

Work No. 57G: Creation of environmental mitigation north of the Shropshire Union Canal / west of Liverpool Road at the location shown on Sheet 9 of the Works Plans, including woodland planting.

## **In the County of Flintshire**

Work No. 57H: Creation of environmental mitigation east of the A494 at the location shown on Sheet 17 of the Works Plans, including—

- (a) woodland planting; and
- (b) scrub planting over the pipeline.

Work No. 57I: Creation of environmental mitigation west of Aston Hill/east of Shotton Lane at the location shown on Sheet 17 and 18 of the Works Plans, including—

- (a) woodland planting; and
- (b) scrub planting over the easement, where the pipeline is laid, and over known utilities locations.

Work No 57J: Creation of environmental mitigation on land east of Alltami Brook at the location shown on Sheet 19 of the Works Plans, including—

- (a) creation of new woodland block; and
- (b) scrub planting over the pipeline.

Work No 57K: Creation of environmental mitigation at Alltami Brook at the location shown on Sheet 19 of the Works Plans, including—

- (a) woodland planting either side of the pipeline;
- (b) scrub planting over the pipeline; and
- (c) riparian planting along the edge of the brook.

Work No 57L: Creation of environmental mitigation east of Brookside at the location shown on Sheets 19 and 20 of the Works Plans, including—

- (a) woodland planting;
- (b) scrub planting over known utilities' locations; and
- (c) riparian planting buffer along the southern edge of the Order Limits adjacent to ditch, should trees along the boundary be removed. Else, continuation of woodland planting only.

Work No 57M: Creation of environmental mitigation west of Work No.44 at the location shown on Sheet 20 of the Works Plans, including –

- (a) woodland planting; and
- (b) scrub planting over the pipeline.

Work No 57N: Creation of environmental mitigation west of Work No. 57M at the location shown on Sheet 20 of the Works Plans, including –

- (a) woodland planting; and
- (b) scrub planting over the pipeline.

And in connection with Work Nos. 1 to 57N, and to the extent that they do not otherwise form part of any such work, development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) temporary works for the benefit or protection of land, watercourses or structures affected by the authorised development;
- (b) site clearance (including fencing and demolition of existing structures);
- (c) earthworks (including soil stripping and storage, site levelling and alteration of ground levels), and remediation of contamination if present;
- (d) works to alter the position of apparatus at or below ground level including mains, sewers, drains and cables and also including below ground structures associated with that apparatus;
- (e) watercourse and other temporary crossings;
- (f) means of access and other vehicular and/or pedestrian means of access, including creation of new tracks and footpaths, and/or widening, upgrades, alterations and improvements of existing roads, tracks and footpaths / alteration of layout of streets to form temporary and permanent accesses, altering the level of any kerb, footway or verge within a street and surface treatments; diversions during construction of existing access routes and subsequent reinstatement of existing routes;
- (g) surface water management systems, temporary drainage during installations;
- (h) landscaping works/ landscaping, planting, vegetation removal, trimming and lopping of trees, tree planting and erection of permanent means of enclosure and boundary facilities including fences and gates, alteration of drains and ditches; / bunds, embankments, swales, landscaping, fencing and boundary treatments;
- (i) manholes, marker posts, underground markers, tiles and tape;
- (j) works for the provision or relocation of apparatus including cabling, water and electricity supply works, foul drainage provision;
- (k) creation, use and reinstatement of crane pads; and
- (l) works of restoration.

## **PART 2 Ancillary works**

Works within the Order Limits which fall within the scope of the work assessed by the environmental statement comprising works for the benefit or protection of land affected by the authorised development.

# **APPENDIX B: EXAMINATION LIBRARY**

## **Piblinell Carbon Deuocsid HyNet**

### **Llyfrgell yr Archwiliad Wedi'i ddiweddarau –**

**22 Medi 2023**

Mae'r Llyfrgell Archwilio hon yn ymwneud â chais Piblinell Carbon Deuocsid Hynet. Mae'r llyfrgell yn rhestru pob dogfen a gyflwynwyd i'r archwiliad gan unrhyw barti ynghyd â dogfennau sydd wedi'u cyhoeddi gan yr Arolygiaeth Gynllunio. Mae'r holl ddogfennau a restrwyd wedi'u cyhoeddi ar y wefan Seilwaith Cenedlaethol a darperir hyperddolen ar gyfer pob dogfen. Rhoddir cyfeirnod unigryw i bob dogfen; bydd y cyfeirnodau hyn yn cael eu defnyddio yn yr Adroddiad ar y Goblygiadau i Safleoedd Ewropeaidd ac fe'u defnyddir yn Adroddiad Argymhellion yr Awdurdod Archwilio. Mae'r dogfennau yn y llyfrgell wedi'u categorio naill ai yn ôl y math o ddogfen neu yn ôl y Dyddiad Cau ar gyfer eu cyflwyno.

## **HyNet Carbon Dioxide Pipeline**

### **Examination Library Updated –**

**22 September 2023**

This Examination Library relates to the HyNet Carbon Dioxide Pipeline application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Byddwch gystal â nodi'r canlynol:

- Mae hon y ddogfen weithio a bydd yn cael ei diweddarau bob hyn a hyn wrth i'r archwiliad fynd rhagddo.
- Mae cyngor o dan Adran 51 Deddf Cynllunio 2008 sydd wedi'i gyhoeddi gan yr Arolygiaeth, wedi'i gyhoeddi ar y Wefan Seilwaith Cenedlaethol ond nid yw wedi'i gynnwys yn y Llyfrgell Archwilio gan nad yw'r cyfryw gyngor yn ddogfen archwiliad.
- Mae'r ddogfen hon yn cynnwys cyfeiriadau at ddogfennau o'r pwynt y cyflwynwyd y cais.
- Mae trefn y dogfennau ym mhob isadran naill ai'n drefn gronolegol, rifol, neu'n drefn y wyddor ac nid yw'n rhoi blaenoriaeth na statws uwch i'r rheiny sydd wedi'u rhestru gyntaf.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

**EN070007 Piblinell Carbon Deuocsid HyNet  
HyNet Carbon Dioxide Pipeline**

**Llyfrgell yr Archwiliad - Mynegai/ Examination Library - Index**

<b>Categori/Category</b>	<b>Reference/Cyfeirnod</b>
<p>Dogfennau Cais/<a href="#">Application Documents</a></p> <p>Fel y'i cyflwynwyd a fersiwn ddiwygiedig a dderbyniwyd cyn y Cyfarfod Rhagarweiniol. Unrhyw fersiwn ddiwygiedig a dderbyniwyd cyn cam yr Archwiliad i'w chadw o dan y Dyddiad Cau a dderbyniwyd</p> <p>-----</p> <p>As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received</p>	APP-xxx
<p>Ymatebion Digonolrwydd yr Ymgynhoriad/<a href="#">Adequacy of Consultation responses</a></p>	AoC-xxx
<p>Cynrychioliadau Berthnasol/<a href="#">Relevant Representations</a></p>	RR-xxx
<p>Penderfyniadau Gweithdrefnol a Hysbysiadau gan yr Awdurdod Archwilio/<a href="#">Procedural Decisions and Notifications from the Examining Authority</a></p> <p>Mae'n cynnwys cwestiynau'r Awdurdod Archwilio, a55, ac a51 cyn derbyn</p>	PD-xxx



<p>-----</p> <p>Includes Examining Authority's questions, s55, and post acceptance s51</p>	
<p>Cyflwyniadau Ychwanegol/<a href="#">Additional Submissions</a></p> <p>Mae'n cynnwys unrhyw beth a dderbyniwyd yn y Cyfarfod Rhagarweiniol a gohebiaeth sydd naill ai'n berthnasol i benderfyniad gweithdrefnol neu sy'n cynnwys gwybodaeth ffeithiol yn ymwneud â'r archwiliad</p> <p>-----</p> <p>Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination</p>	AS-xxx
<p>Digwyddiadau a Gwrandawiadau/<a href="#">Events and Hearings</a></p> <p>Mae'n cynnwys agendâu ar gyfer gwrandawiadau ac archwiliadau safle, recordiadau sain, ymatebion i hysbysiadau, hysbysiadau gwrandawriad ymgeisydd, ac ymatebion i lythyrau Rheol 6 a Rheol 8</p> <p>-----</p> <p>Includes agendas for hearings and site inspections, audio recordings, responses to notifications, applicant's hearing notices, and responses to Rule 6 and Rule 8 letters</p>	EV-xxx
<p>Cynrychioliadau – erbyn y Dyddiad Cau/<a href="#">Representations – by Deadline</a></p>	

Dyddiad Cau Gweithdrefnol A / <a href="#">Procedural Deadline A</a>	PDA1-xxx
Dyddiad Cau 1/ <a href="#">Deadline 1:</a>	REP1-xxx
Dyddiad Cau 1A/ <a href="#">Deadline 1A</a>	REP1A-xxx
Dyddiad Cau 2/ <a href="#">Deadline 2:</a>	REP2-xxx
Dyddiad Cau 3/ <a href="#">Deadline 3:</a>	REP3-xxx
Dyddiad Cau 4/ <a href="#">Deadline 4:</a>	REP4-xxx
Dyddiad Cau 5/ <a href="#">Deadline 5:</a>	REP5-xxx
Dyddiad Cau 6/ <a href="#">Deadline 6:</a>	REP6-xxx
Dyddiad Cau 6A / <a href="#">Deadline 6A:</a>	REP6A-xxx
Dyddiad Cau 7/ <a href="#">Deadline 7:</a>	REP7-xxx
Dyddiad Cau 8/ <a href="#">Deadline 8:</a>	REP8-xxx
Dyddiad Cau 9/ <a href="#">Deadline 9:</a>	REP9-xxx
Dogfennau Arall/ <a href="#">Other Documents</a>	OD-xxx
Mae'n cynnwys gwybodaeth a127/131/138, tystysgrifau a56, a58 ac a59, a dogfennau trawsffiniol	

-----  
Includes s127/131/138 information,  
s56, s58 and s59 certificates, and  
transboundary documents

**EN070007 Piblinell Carbon Deuocsid HyNet  
HyNet Carbon Dioxide Pipeline**

**Llyfrgell yr Archwiliad/ Examination Library**

**Dogfennau Cais/ Application Documents**

**Sylwch fod dogfennau a dderbyniwyd gan yr Arolygiaeth ar gael yn Saesneg yn unig. Bydd dogfennau a baratowyd gan yr Arolygiaeth ar gael yn ddwyieithog.**

**Please note that documents which have been received by the Inspectorate are only available in English. Documents prepared by the Inspectorate will be available bilingually.**

**[Geirfa yr Ymgeisydd yma/ The Applicant's glossary can be found here](#)**

APP-001	<a href="#">Liverpool Bay CCS Limited</a> D.1.1 Application Cover Letter
APP-002	<a href="#">Liverpool Bay CCS Limited</a> D.1.2 Application Guide
APP-003	<a href="#">Liverpool Bay CCS Limited</a> D.1.3 Application Document Tracker
APP-004	<a href="#">Liverpool Bay CCS Limited</a> D.1.4 Application Form
APP-005	<a href="#">Liverpool Bay CCS Limited</a> D.1.5 Section 55 Checklist
APP-006	<a href="#">Liverpool Bay CCS Limited</a> D.1.7 Glossary
APP-007	<a href="#">Liverpool Bay CCS Limited</a> D.2.1 Location Plan
APP-008	<a href="#">Liverpool Bay CCS Limited</a> D.2.2 Land Plans
APP-009	<a href="#">Liverpool Bay CCS Limited</a>

	D.2.3 Crown Land Plans
APP-010	<a href="#">Liverpool Bay CCS Limited</a> D.2.4 Works Plans - Part 1
APP-011	<a href="#">Liverpool Bay CCS Limited</a> D.2.4 Works Plans - Part 2
APP-012	<a href="#">Liverpool Bay CCS Limited</a> D.2.5 Access and Rights of Way Plans - Part 1
APP-013	<a href="#">Liverpool Bay CCS Limited</a> D.2.5 Access and Rights of Way Plans - Part 2
APP-014	<a href="#">Liverpool Bay CCS Limited</a> D.2.6 Special Category Land Plans
APP-015	<a href="#">Liverpool Bay CCS Limited</a> D.2.7 BVS Location Plans
APP-016	<a href="#">Liverpool Bay CCS Limited</a> D.2.8 BVS Elevation Plans
APP-017	<a href="#">Liverpool Bay CCS Limited</a> D.2.9 BVS Planning Arrangement Plans
APP-018	<a href="#">Liverpool Bay CCS Limited</a> D.2.10 AGI Location Plans
APP-019	<a href="#">Liverpool Bay CCS Limited</a> D.2.11 AGI Elevation Plans
APP-020	<a href="#">Liverpool Bay CCS Limited</a> D.2.12 AGI Planning Arrangement Plans
APP-021	<a href="#">Liverpool Bay CCS Limited</a> D.2.13 Important Hedgerow Plan - Part 1
APP-022	<a href="#">Liverpool Bay CCS Limited</a> D.2.13 Important Hedgerow Plan - Part 2
APP-023	<a href="#">Liverpool Bay CCS Limited</a> D.2.14 BVS and AGI Landscape Layouts
APP-024	<a href="#">Liverpool Bay CCS Limited</a> D.3.1 Draft Development Consent Order

APP-025	<a href="#">Liverpool Bay CCS Limited</a> D.3.2 Explanatory Memorandum
APP-026	<a href="#">Liverpool Bay CCS Limited</a> DCO Validation Report
APP-027	<a href="#">Liverpool Bay CCS Limited</a> D.4.1 Statement of Reasons
APP-028	<a href="#">Liverpool Bay CCS Limited</a> D.4.1.1 Schedule of Negotiations with Land Interests
APP-029	<a href="#">Liverpool Bay CCS Limited</a> D.4.2 Funding Statement
APP-030	<a href="#">Liverpool Bay CCS Limited</a> D.4.3 Book of Reference
APP-031	<a href="#">Liverpool Bay CCS Limited</a> D.5.1 HyNet DCO Consultation Report (Volume V)
APP-032	<a href="#">Liverpool Bay CCS Limited</a> D.5.1.1 Appendix A - Meetings with Stakeholders
APP-033	<a href="#">Liverpool Bay CCS Limited</a> D.5.1.2 Appendix B - Section 46
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APP-042	<a href="#">Liverpool Bay CCS Limited</a> D.5.1.9 Appendix I - Land Referencing Methodology
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APP-044	<a href="#">Liverpool Bay CCS Limited</a> D.5.1.11 Appendix K - Undelivered Correspondence
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APP-052	<a href="#">Liverpool Bay CCS Limited</a> D.6.1a Environmental Statement - Non Technical Summary (Welsh Translation)
APP-053	<a href="#">Liverpool Bay CCS Limited</a> D.6.2.1. Environmental Statement - Chapter 1 - Introduction
APP-054	<a href="#">Liverpool Bay CCS Limited</a> D.6.2.2 Environmental Statement - Chapter 2 - The Project

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APP-062	<a href="#">Liverpool Bay CCS Limited</a> D.6.2.10 Environmental Statement - Chapter 10 - Greenhouse Gases
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AoC-001	<a href="#">Cheshire East Council</a> Cynrychiolaeth Digonolrwydd Ymgynghori  <a href="#">Cheshire East Council</a> Adequacy of Consultation Representation

AoC-002	<a href="#">Cheshire West and Chester Borough Council</a> Cynrychiolaeth Digonolrwydd Ymgynghori  <a href="#">Cheshire West and Chester Borough Council</a> Adequacy of Consultation Representation
AoC-003	<a href="#">Flintshire County Council</a> Cynrychiolaeth Digonolrwydd Ymgynghori  <a href="#">Flintshire County Council</a> Adequacy of Consultation Representation
<b>Cynrychiolaeth Berthnasol/ Relevant Representations</b>	
RR-001	<a href="#">2 Sisters Food Group</a>
RR-002	<a href="#">Bell Ingram LLP on behalf of Essar Oil (UK) Limited (Essar Oil (UK) Limited)</a>
RR-003	<a href="#">BNP Paribas Real Estate on behalf of Royal Mail Group Limited</a>
RR-004	<a href="#">Boparan Private Office</a>
RR-005	<a href="#">Brian Cook</a>
RR-006	<a href="#">Cadent Gas Limited</a>
RR-007	<a href="#">Cadw on behalf of Cadw, Welsh Government</a>
RR-008	<a href="#">Canal &amp; River Trust</a>
RR-009	<a href="#">Carl Woods</a>
RR-010	<a href="#">Carolyn Thomas MS</a>
RR-011	<a href="#">Carter Jonas on behalf of Travelodge Hotels Limited</a>
RR-012	<a href="#">Cheshire West And Chester Borough Council</a>
RR-013	<a href="#">Christopher Reeves</a>
RR-014	<a href="#">Cllr Andrew Farrow</a>
RR-015	<a href="#">Cllr Christine Jones</a>
RR-016	<a href="#">Cllr Linda Thomas</a>
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RR-018	<a href="#">Daniel Rose</a>



RR-019	<a href="#">Dave Mackie</a>
RR-020	<a href="#">Deborah Jones</a>
RR-021	<a href="#">Defence Infrastructure Organisation Safeguarding Department</a>
RR-022	<a href="#">Douglas Bartlett</a>
RR-023	<a href="#">Dwr Cymru Welsh Water</a>
RR-024	<a href="#">Environment Agency</a>
RR-025	<a href="#">Eric Andrew Harkness</a>
RR-026	<a href="#">Eversheds Sutherland (International) LLP (Eversheds Sutherland (International) LLP) on behalf of Network Rail Infrastructure Limited</a>
RR-027	<a href="#">Fisher German LLP on behalf of A White Events Limited</a>
RR-028	<a href="#">Fisher German LLP on behalf of Messrs AM &amp; JM Walton</a>
RR-029	<a href="#">Fisher German LLP on behalf of Messrs EE &amp; JE Williams</a>
RR-030	<a href="#">Fisher German LLP on behalf of Messrs H W Oultram &amp; Co, Miss C Oultram &amp; Messrs S &amp; A Oultram</a>
RR-031	<a href="#">Fisher German LLP on behalf of Messrs J Wrench &amp; Son</a>
RR-032	<a href="#">Fisher German LLP on behalf of Messrs MJ &amp; A Cheers</a>
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RR-034	<a href="#">Flintshire County Council</a>
RR-035	<a href="#">Flintshire County Council</a>
RR-036	<a href="#">Gavin Goodwin</a>
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RR-041	<a href="#">J. Bradburne Price &amp; Co. on behalf of Andrew &amp; Karen Hirst</a>
RR-042	<a href="#">J. Bradburne Price &amp; Co. on behalf of Andrew Mullock</a>
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RR-044	<a href="#">J. Bradburne Price &amp; Co. on behalf of Ian Bentley</a>
RR-045	<a href="#">J. Bradburne Price &amp; Co. on behalf of J.G. &amp; M.A. BROWN &amp; SON</a>
RR-046	<a href="#">J. Bradburne Price &amp; Co. on behalf of John Calvin Peers</a>
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RR-048	<a href="#">J. Bradburne Price &amp; Co. on behalf of Mr E. &amp; Mrs J. Williams</a>

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RR-054	<a href="#">James doran</a>
RR-055	<a href="#">John Horace George Bletcher</a>
RR-056	<a href="#">John Littler</a>
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RR-071	<a href="#">Rostons on behalf of Emma Clare Craven-Smith-Milnes</a>
RR-072	<a href="#">Rostons on behalf of Frances Isobel Jones, Kevin Glyn Jones and Sarah Ann Jones</a>
RR-073	<a href="#">Rostons on behalf of Mr David John Brown, Mr James Edward Brown and Mrs Ruth Brown</a>
RR-074	<a href="#">Sarah Harley</a>
RR-075	<a href="#">SP Energy Networks</a>
RR-076	<a href="#">The Coal Authority</a>
RR-077	<a href="#">The Woodland Trust</a>
RR-078	<a href="#">Turley, on behalf of Peel NRE on behalf of Peel NRE</a>

RR-079	<a href="#">UK Health Security Agency</a>
RR-080	<a href="#">United Utilities Water Limited</a>
RR-081	<a href="#">Urban Imprint Limited on behalf of CF Fertilisers UK Limited</a>
RR-082	<a href="#">Vera Elaine Warrington</a>
RR-083	<a href="#">Welsh Government</a>
<b>Penderfyniadau Gweithdrefnol a Hysbysiadau gan yr Awdurdod Archwilio // Procedural Decisions and Notifications from the Examining Authority</b>	
PD-001	<a href="#">Hysbysiad o Benderfyniad i Dderbyn Cais (Cymraeg)</a>  <a href="#">Notification of Decision to Accept Application (Welsh)</a>
PD-002	<a href="#">Hysbysiad o Benderfyniad i Dderbyn Cais (Saesneg)</a>  <a href="#">Notification of Decision to Accept Application (English)</a>
PD-003	<a href="#">Cyngor Adran 51i'r Ymgeisydd (Cymraeg)</a>  <a href="#">Section 51 advice to the Applicant (Welsh)</a>
PD-004	<a href="#">Cyngor Adran 51i'r Ymgeisydd (Saesneg)</a>  <a href="#">Section 51 advice to the Applicant (English)</a>
PD-005	<a href="#">Rhestr Wirio Adran 55 (Cymraeg)</a>  <a href="#">Section 55 Checklist (Welsh)</a>
PD-006	<a href="#">Rhestr Wirio Adran 55 (Saesneg)</a>  <a href="#">Section 55 Checklist (English)</a>

PD-007	<a href="#">Rhybudd o Benodi Awdurdod Archwilio (Cymraeg)</a>  <a href="#">Notification of the appointment of the Examining Authority (English)</a>
PD-008	<a href="#">British Pipeline Agency Limited – Cymraeg</a> Llythyr Penderfyniad a102A  <a href="#">British Pipeline Agency Limited – English</a> S102A Decision Letter
PD-009	<a href="#">Cellnex UK - Cymraeg</a> Llythyr Penderfyniad a102A  <a href="#">Cellnex UK - English</a> S102A Decision Letter
PD-010	<a href="#">Nicola Berrow - Cymraeg</a> Llythyr Penderfyniad a102A  <a href="#">Nicola Berrow - English</a> S102A Decision Letter
PD-011	<a href="#">Llythyr Rheol 6 – hysbysiad o’r cyfarfod rhagarweiniol a’r materion i’w trafod</a>  <a href="#">Rule 6 letter - notification of the preliminary meeting and matters to be discussed</a>
PD-012	<a href="#">Rheol 8 - Hysbysiad o’r amserlen ar gyfer yr archwiliad</a>  <a href="#">Rule 8 letter - notification of timetable for the examination</a>
PD-013	<a href="#">Cwestiynau ysgrifenedig a cheisiadau am wybodaeth yr Awdurdod Archwilio (ExQ1)</a>

	<a href="#">The Examining Authority's written questions and requests for information (ExQ1) (Welsh)</a>
PD-014	<a href="#">Cwestiynau ysgrifenedig a cheisiadau am wybodaeth yr Awdurdod Archwilio (ExQ1) (Saesneg)</a>  <a href="#">The Examining Authority's written questions and requests for information (ExQ1) (English)</a>
PD-015	<a href="#">Wireless Infrastructure Group - Cymraeg</a> Llythyr Penderfyniad a102A  <a href="#">Wireless Infrastructure Group - English</a> S102A Decision Letter
PD-016	<a href="#">Rheoliad 6 - Penderfyniad Gweithdrefnol yn dilyn cais i wneud newidiadau i'r cais (Cymraeg)</a>  <a href="#">Regulation 6 - Procedural Decision following request to make changes to the application (English)</a>
PD-017	<a href="#">Darpariaeth Arfaethedig ar gyfer Caffael Gorfodol Tir Ychwanegol (Cymraeg)</a>  <a href="#">Proposed Provision for the Compulsory Acquisition of Additional Land (English)</a>
PD-018	<a href="#">Hysbysiad gan Ymgeisydd am fwriad i gyflwyno cais am newidiadau i'r cais - Cymraeg</a>  <a href="#">Notice by Applicant of intention to submit a request for changes to the application - English</a>
PD-019	<a href="#">Penderfyniad Gweithdrefnol yn dilyn ail gais i wneud newidiadau i'r cais (Cymraeg)</a>

	<p><a href="#">Procedural Decision following a second request to make changes to the application (English)</a></p>
PD-020	<p><a href="#">Darpariaeth Arfaethedig ar gyfer Caffael Tir Ychwanegol yn Orfodol (Cymraeg)</a></p> <p><a href="#">Proposed Provision for the Compulsory Acquisition of Additional Land (English)</a></p>
PD-021	<p><a href="#">Rheol 16 - Hysbysiad o Arolygiad Safle gyda Chwmni (ASI) ac Amserlen ASI (Cymraeg)</a></p> <p><a href="#">Rule 16 - Notification of Accompanied Site Inspection (ASI) and ASI Itinerary (English)</a></p>
PD-022	<p><a href="#">Ail rownd cwestiynau ysgrifenedig a cheisiadau am wybodaeth yr Awdurdod Archwilio (ExQ2) (Cymraeg)</a></p> <p><a href="#">The Examining Authority's second written questions and requests for information (ExQ2) (English)</a></p>
PD-023	<p><a href="#">Hysbysiad gan Ymgeisydd am fwriad i gyflwyno cais am newidiadau i'r cais - Saesneg</a></p> <p><a href="#">Notice by Applicant of intention to submit a request for changes to the application - English</a></p>
PD-024	<p><a href="#">Hysbysiad gan Ymgeisydd am fwriad i gyflwyno cais am newidiadau i'r cais - Cymraeg</a></p>

	<a href="#">Notice by Applicant of intention to submit a request for changes to the application - Welsh</a>
PD-025	<a href="#">Cais i Wneud Newidiadau Arfaethedig i'r Cais am Orchymyn yn Rhoi Caniatâd Datblygu ar gyfer Piblinell Carbon Deuocsid HyNet (Cymraeg)</a>  <a href="#">Request for Proposed Changes to the HyNet Carbon Dioxide Pipeline Development Consent Order Application (English)</a>
PD-026	<a href="#">Rheolau 8(3) a 13 - Hysbysiad o amrywiad i'r Amserlen yr Archwiliad ar ôl derbyn cais i newid i'w archwilio (Cymraeg)</a>  <a href="#">Rules 8(3) and 13 - Notice of variation to the Examination Timetable (English)</a>
PD-027	<a href="#">Trydedd rownd o gwestiynau ysgrifenedig a cheisiadau am wybodaeth yr Awdurdod Archwilio (ExQ3) (Cymraeg)</a>  <a href="#">The Examining Authority's third round of written questions and requests for information (ExQ3) (English)</a>
PD-028	<a href="#">Rheol 17 - Cais am ragor o wybodaeth (Cymraeg)</a>  <a href="#">Rule 17 - Request for further information (English)</a>
PD-029	<a href="#">Rheol 8(3) - Hysbysiad o amrywiad i'r Amserlen yr Archwiliad (Cymraeg)</a>  <a href="#">Rule 8(3) - Notice of variation to the Examination Timetable (English)</a>
PD-030	<a href="#">Hysbysiad o gwblhau'r Archwiliad gan yr Awdurdod Archwilio (Cymraeg)</a>  <a href="#">Notification of completion of the Examining Authority's Examination (English)</a>

<b>Cyflwyniadau Ychwanegol/ Additional Submissions</b>	
AS-001	<a href="#">Liverpool Bay CCS Limited</a> Applicant's Response to s51 Advice - Cover Letter - Published provisionally on 17 November 2022. Accepted by the Examining Authority following appointment on 17 January 2023
AS-002	<a href="#">Liverpool Bay CCS Limited</a> Applicant's Response to s51 Advice - D.1.3 Application Document Tracker - Published provisionally on 17 November 2022. Accepted by the Examining Authority following appointment on 17 January 2023
AS-003	<a href="#">Liverpool Bay CCS Limited</a> Applicant's Response to s51 Advice - D.1.4 Application Form - Published provisionally on 17 November 2022. Accepted by the Examining Authority following appointment on 17 January 2023
AS-004	<a href="#">Liverpool Bay CCS Limited</a> Applicant's Response to s51 Advice - D.6.3.18.5 Appendix 18 - Part 1 - Published provisionally on 17 November 2022. Accepted by the Examining Authority following appointment on 17 January 2023
AS-005	<a href="#">Liverpool Bay CCS Limited</a> Applicant's Response to s51 Advice - D.6.3.18.5 Appendix 18 - Part 2 - Published provisionally on 17 November 2022. Accepted by the Examining Authority following appointment on 17 January 2023
AS-006	<a href="#">Liverpool Bay CCS Limited</a> Applicant's Response to s51 Advice - D.6.3.18.5 Appendix 18 - Part 3 - Published provisionally on 17 November 2022. Accepted by the Examining Authority following appointment on 17 January 2023
AS-007	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.1.2 Cover Letter s51 Advice Response
AS-008	<a href="#">Liverpool Bay CCS Limited</a>



	Additional Submission - Accepted at the discretion of the Examining Authority - D.1.3 Application Document Tracker (Clean)
AS-009	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.1.3 Application Document Tracker (Tracked Changes)
AS-010	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.2 Land Plans
AS-011	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.3 Crown Plans
AS-012	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.4 Works Plans
AS-013	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.5 Access and Rights of Way Plans
AS-014	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.13 Important Hedgerow Plans - Part 1
AS-015	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.13 Important Hedgerow Plans - Part 2
AS-016	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.3.1 Draft Development Consent Order (Clean)
AS-017	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.3.1 Draft Development Consent Order (Tracked Changes)
AS-018	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.3.2 Explanatory Memorandum (Clean)
AS-019	<a href="#">Liverpool Bay CCS Limited</a>

	Additional Submission - Accepted at the discretion of the Examining Authority - D.3.2 Explanatory Memorandum (Tracked Changes)
AS-020	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.3.3 Schedule of Changes to the DCO
AS-021	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.1 Statement of Reasons (Clean)
AS-022	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.1 Statement of Reasons (Tracked Changes)
AS-023	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.3 Book of Reference (Clean)
AS-024	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.3 Book of Reference (Tracked Changes)
AS-025	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.2.9 Chapter 09 - Biodiversity (Clean)
AS-026	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.2.9 Chapter 09 - Biodiversity (Tracked Changes)
AS-027	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.3 Environmental Statement - Appendix 9.3 - Bat Activity Survey Report Part 1 (Clean) <b>This has now been superseded by document AS-057</b>
AS-028	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.3 Environmental Statement - Appendix 9.3 Bat Activity Survey Report Part 1 (Tracked Changes) <b>This has now been superseded by document AS-058</b>

AS-029	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.3 Environmental Statement - Appendix 9.3 Bats Activity Survey Report Annex G Part 2 (Clean)
AS-030	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.3 Environmental Statement - Appendix 9.3 - Bat Activity Survey Report Annex G Part 2 (Tracked Changes)
AS-031	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Appendix 9.4 - Bats and Hedgerows Assessment - Part 1 (Clean)
AS-032	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment - Part 1 (Tracked Changes)
AS-033	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Environmental Statement - Appendix 9.4 - Bats and Hedgerows Assessment - Part 2 (Clean)
AS-034	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Environmental Statement - Appendix 9.4 - Bats and Hedgerows Assessment - Part 2 (Clean) <b>This has now been superseded by document AS-059</b>
AS-035	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Environmental Statement - Appendix 9.4 - Bats and Hedgerows Assessment - Part 4 (Clean)
AS-036	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Environmental Statement - Appendix 9.4 - Bats and Hedgerows Assessment - Part 5 (Clean)
AS-037	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Environmental Statement - Appendix 9.4 - Bats and Hedgerows Assessment - Part 6 (Clean)

AS-038	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Environmental Statement - Appendix 9.4 - Bats and Hedgerows Assessment - Part 7 (Clean)
AS-039	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.6 Environmental Statement - Appendix 9.6 - Riparian Mammal Survey Report (Clean)
AS-040	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.6 Environmental Statement - Appendix 9.6 Riparian Mammal Survey Report - Part 1 (Tracked Changes)
AS-041	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.6 Environmental Statement - Appendix 9.6 - Riparian Mammal Survey Report - Part 2 (Tracked Changes)
AS-042	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.6 Environmental Statement - Appendix 9.6 - Riparian Mammal Survey Report - Part 3 (Tracked Changes)
AS-043	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment - Part 1
AS-044	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment - Part 2
AS-045	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment - Part 3
AS-046	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment - Part 4
AS-047	<a href="#">Liverpool Bay CCS Limited</a>

	Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment - Part 5
AS-048	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment - Part 6
AS-049	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment - Part 7
AS-050	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment - Part 8
AS-051	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment - Part 9
AS-052	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment - Part 10
AS-053	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.1 Register of Environmental Actions and Commitments (Clean)
AS-054	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.1 Register of Environmental Actions and Commitments (Tracked Changes)
AS-055	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.4 Outline Construction Environmental Management Plan (Clean)
AS-056	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.4 Outline Construction Environmental Management Plan (Tracked Changes)

AS-057	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.3 Environmental Statement - Appendix 9.3 - Bat Activity Survey Report Part 1 (Clean) <b>Supersedes AS-027</b>
AS-058	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.3 Environmental Statement - Appendix 9.3 Bat Activity Survey Report Part 1 (Tracked Changes) <b>Supersedes AS-028</b>
AS-059	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Appendix 9.4 Bats and Hedgerows Assessment Rev B Part 3 <b>Supersedes AS-034</b>
AS-060	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.5 Notification of Intention to Submit a Change Request
AS-061	<a href="#">United Utilities Water Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - Comments on the Preliminary Environmental Information Report
AS-062	<a href="#">United Utilities Water Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - Response to ExA's ExQ1
AS-063	<a href="#">United Utilities Water Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - Standard Conditions for Works Adjacent to Pipelines
AS-064	<a href="#">Stephen Gibbins</a> Additional Submission - Accepted at the discretion of the Examining Authority - Non-IP Stephen Gibbins
AS-065	<a href="#">Canal and River Trust</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-066	<a href="#">Liverpool Bay CCS Limited</a>

	Additional Submission - Accepted at the discretion of the Examining Authority - D.7.20 Notification of Intention to Submit a Change Request 2
AS-067	<a href="#">Fisher German LLP on behalf of John Williams</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-068	<a href="#">Turley on behalf of Peel NRE</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-069	<a href="#">The Woodland Trust</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-070	<a href="#">J Bradburne Price and Co on behalf of Andrew and Karen Hirst</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-071	<a href="#">J Bradburne Price and Co on behalf of John Calvin Peers</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-072	<a href="#">J Bradburne Price and Co on behalf of The Executors of Gwynedd Evans</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-073	<a href="#">J Bradburne Price and Co on behalf of Various Parties</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-074	<a href="#">Natural Resources Wales</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-075	<a href="#">British Pipeline Agency Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority
AS-076	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.3 Environmental Statement Appendix 9.3 Bat Activity Survey (Clean) <b>This report will supersede CR1-062 (Clean)</b>
AS-077	<a href="#">Liverpool Bay CCS Limited</a>

	<p>Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.3 Environmental Statement Appendix 9.3 Bat Activity Survey (Tracked Change)</p> <p><b>This report will supersede CR1-063 (Tracked)</b></p>
AS-078	<p><a href="#">Flintshire County Council</a> Additional Submission - Accepted at the discretion of the Examining Authority - Green Wedge and Alltami Brook</p>
AS-079	<p><a href="#">Natural Resources Wales</a> Additional Submission - Accepted at the discretion of the Examining Authority - Non-attendance at ISH3</p>
AS-080	<p><a href="#">Cheshire West and Chester</a> Additional Submission - Accepted at the discretion of the Examining Authority</p>
AS-081	<p><a href="#">Welsh Government</a> Additional Submission - Accepted at the discretion of the Examining Authority - Cover Letter</p>
AS-082	<p><a href="#">Welsh Government</a> Additional Submission - Accepted at the discretion of the Examining Authority - Protective Provisions - 29 August 2023</p>
AS-083	<p><a href="#">Welsh Government</a> Additional Submission - Accepted at the discretion of the Examining Authority - Statement of Common Ground</p>
<b>Change Request Application</b>	
<b>Change Request 1</b>	
CR1-001	<p><a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.1.3 Application Document Tracker (Clean)</p>
CR1-002	<p><a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.1.3 Application Document Tracker (Tracked Changes)</p>
CR1-003	<p><a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.1 Location Plan</p>
CR1-004	<p><a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.10 AGI Location Plans</p>
CR1-005	<p><a href="#">Liverpool Bay CCS Limited</a></p>



	Additional Submission - Accepted at the discretion of the Examining Authority - D.2.11 AGI Elevation Plans
CR1-006	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.12 AGI Planning Arrangement Plans
CR1-007	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.13 Important Hedgerow Plans
CR1-008	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.14 BVS and AGI Landscape Layout Plans
CR1-009	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.2 Land Plans
CR1-010	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.3 Crown Land Plans
CR1-011	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.4 Works Plans
CR1-012	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.5 Access and Rights of Way Plans
CR1-013	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.6 Special Category Land Plans
CR1-014	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.7 BVS Location Plans
CR1-015	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.8 BVS Elevation Plans
CR1-016	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.9 BVS Planning Arrangement Plans
CR1-017	<a href="#">Liverpool Bay CCS Limited</a>

	Additional Submission - Accepted at the discretion of the Examining Authority - D.3.1 Draft Development Consent Order (Clean)
CR1-018	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.3.1 Draft Development Consent Order (Tracked changes)
CR1-019	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.3.3 Schedule of Changes to the dDCO
CR1-020	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.1 Statement of Reasons (Clean)
CR1-021	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.1 Statement of Reasons (Tracked Changes)
CR1-022	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.3 Book of Reference (Clean)
CR1-023	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.3 Book of Reference (Tracked Changes)
CR1-024	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.1 Environmental Statement - Non Technical Summary (Clean)
CR1-025	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.1 Environmental Statement - Non Technical Summary (Tracked Changes)
CR1-026	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.1a Environmental Statement - Non Technical Summary - Welsh (Clean)
CR1-027	<a href="#">Liverpool Bay CCS Limited</a>

	Additional Submission - Accepted at the discretion of the Examining Authority - D.6.1a Environmental Statement - Non Technical Summary - Welsh (Tracked Changes)
CR1-028	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.12.1 Environmental Statement - Appendix 12.1 Baseline Information (Clean)
CR1-029	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.12.1 Environmental Statement - Appendix 12.1 Baseline Information (Tracked Change)
CR1-030	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.12.4 Environmental Statement - Appendix 12.4 Visual Analysis (Clean)
CR1-031	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.12.4 Environmental Statement - Appendix 12.4 Visual Analysis (Tracked Changes)
CR1-032	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.13.1 Environmental Statement - Appendix 13.1 MAD Long List (Clean)
CR1-033	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.13.1 Environmental Statement - Appendix 13.1 MAD Long List (Tracked Changes)
CR1-034	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.13.2 Environmental Statement - Appendix 13.2 ES Risk Record (Clean)
CR1-035	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.13.2 Environmental Statement - Appendix 13.2 ES Risk Record (Tracked Changes)
CR1-036	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.15.3A Environmental Statement - Appendix 15.3 - Noise and Vibration Assessment Results (Clean)

CR1-037	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.15.3A Environmental Statement - Appendix 15.3 - Noise and Vibration Assessment Results (Tracked Changes)
CR1-038	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.16.1 Environmental Statement - Appendix 16.1 Land Use and Assets (Clean)
CR1-039	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.16.1 Environmental Statement - Appendix 16.1 Land Use and Assets (Tracked Changes)
CR1-040	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.16.2 Environmental Statement - Appendix 16.2 Public Rights of Way (Clean)
CR1-041	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.16.2 Environmental Statement - Appendix 16.2 Public Rights of Way (Tracked Changes)
CR1-042	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.17.13 Environmental Statement - Appendix 17.13 Transport Assessment (Clean)
CR1-043	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.17.13 Environmental Statement - Appendix 17.13 Transport Assessment (Tracked Changes)
CR1-044	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.19.1 Environmental Statement - Appendix 19.1 Inter-Project Effects Assessment (Clean)
CR1-045	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.19.1 Environmental Statement - Appendix 19.1 Inter-Project Effects Assessment (Tracked Change)
CR1-046	<a href="#">Liverpool Bay CCS Limited</a>

	Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.19.2 Environmental Statement - Appendix 19.2 Intra-Project Effects Assessment (Clean)
CR1-047	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.19.2 Environmental Statement - Appendix 19.2 Intra-Project Effects Assessment (Tracked Changes)
CR1-048	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.3.1 Environmental Statement - Appendix 3.1 Table of Trenchless Crossings (Clean)
CR1-049	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.3.1 Environmental Statement - Appendix 3.1 Table of Trenchless Crossings (Tracked Changes)
CR1-050	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.3.2 Environmental Statement - Appendix 3.2 Indicative Plant and Equipment (Clean)
CR1-051	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.3.2 Environmental Statement - Appendix 3.2 Indicative Plant and Equipment (Tracked Changes)
CR1-052	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.5.1 Environmental Statement - Appendix 5.1 Relevant Expertise and Competency (Clean)
CR1-053	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.5.1 Environmental Statement - Appendix 5.1 Relevant Expertise and Competency (Tracked Changes)
CR1-054	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.1 Environmental Statement - Appendix 9.1 Habitats and Designated Sites (Clean)
CR1-055	<a href="#">Liverpool Bay CCS Limited</a>

	Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.1 Environmental Statement - Appendix 9.1 Habitats and Designated Sites (Tracked Changes)
CR1-056	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.10 Environmental Statement - Appendix 9.10 Aquatic Ecology (Ponds) Survey Report (Clean)
CR1-057	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.10 Environmental Statement - Appendix 9.10 Aquatic Ecology (Ponds) Survey Report (Tracked Changes)
CR1-058	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.11 Environmental Statement - Appendix 9.11 Arboricultural Impact Assessment Rev B (Clean)
CR1-059	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.11 Environmental Statement - Appendix 9.11 Arboricultural Impact Assessment Rev B (Tracked Changes)
CR1-060	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.2 Environmental Statement - Appendix 9.2 Great Crested Newt Survey Report (Clean)
CR1-061	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.2 Environmental Statement - Appendix 9.2 Great Crested Newt Survey Report (Tracked Changes)
CR1-062	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.3 Environmental Statement - Appendix 9.3 Bat Activity Survey (Clean) <b>Superseded by AS-076 (Clean)</b>
CR1-063	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.3 Environmental Statement - Appendix 9.3 Bat Activity Survey (Tracked Changes) <b>Superseded by AS-077 (Tracked Change)</b>

CR1-064	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment (Clean) (Part 1)
CR1-065	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment (Clean) (Part 2)
CR1-066	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment (Clean) (Part 3)
CR1-067	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment (Tracked Changes) (Part 1)
CR1-068	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment (Tracked Changes) (Part 2)
CR1-069	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment (Tracked Changes) (Part 3)
CR1-070	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.5 Environmental Statement - Appendix 9.5 Badger Survey Report (Confidential) (Clean)
CR1-071	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.5 Environmental Statement - Appendix 9.5 Badger Survey Report (Confidential) (Tracked Changes)
CR1-072	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.6 Environmental Statement - Appendix 9.6 Riparian Mammal Survey Report (Clean) (Part 1)



CR1-073	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.6 Environmental Statement - Appendix 9.6 Riparian Mammal Survey Report (Clean) (Part 2)
CR1-074	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.6 Environmental Statement - Appendix 9.6 Riparian Mammal Survey Report (Tracked Changes) (Part 1)
CR1-075	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.6 Environmental Statement - Appendix 9.6 Riparian Mammal Survey Report (Tracked Changes) (Part 2)
CR1-076	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.7 Environmental Statement - Appendix 9.7 Barn Owl Survey Report (Confidential) (Clean)
CR1-077	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.7 Environmental Statement - Appendix 9.7 Barn Owl Survey Report (Confidential) (Tracked Changes)
CR1-078	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.8 Environmental Statement - Appendix 9.8 Bird Report (Clean)
CR1-079	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.8 Environmental Statement - Appendix 9.8 Bird Report (Tracked Changes)
CR1-080	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.9 Environmental Statement - Appendix 9.9 Aquatic Ecology (Watercourses) Survey Report (Clean)
CR1-081	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.3.9.9 Environmental Statement - Appendix 9.9 Aquatic Ecology (Watercourses) Survey Report (Tracked Changes)



CR1-082	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.12.1 Environmental Statement - Figure 12.1 Zone of Theoretical Visibility
CR1-083	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.12.2 Environmental Statement - Figure 12.2 Landscape Character Plan
CR1-084	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.12.3 Environmental Statement - Figure 12.3 Viewpoint Plan
CR1-085	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.12.4 Environmental Statement - Figure 12.4 Viewpoint Photography
CR1-086	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.12.5 Environmental Statement - Figure 12.5 Photomontages
CR1-087	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.15.2 Environmental Statement - Figure 15.2 Predicted Construction Noise Levels
CR1-088	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.15.3 Environmental Statement - Figure 15.3 Magnitude of Construction Noise Impacts
CR1-089	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.17.1 Environmental Statement - Figure 17.1 Traffic and Transport Zone of Influence
CR1-090	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.17.2 Environmental Statement - Figure 17.2 ATC Locations
CR1-091	<a href="#">Liverpool Bay CCS Limited</a>

	Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.17.3 Environmental Statement - Figure 17.3 Personal Injury Accident Locations
CR1-092	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.17.4 Environmental Statement - Figure 17.4 Construction Traffic Routes
CR1-093	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.17.5 Environmental Statement - Figure 17.5 Access Locations
CR1-094	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.17.6 Environmental Statement - Figure 17.6 PRow Diversions
CR1-095	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.17.7 Environmental Statement - Figure 17.7 Road Diversions
CR1-096	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.18.1 Environmental Statement - Figure 18.1 Watercourses
CR1-097	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.18.2 Environmental Statement - Figure 18.2 Superficial and Bedrock Geology
CR1-098	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.18.3 Environmental Statement - Figure 18.3 Radii of influence
CR1-099	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.19.1 Environmental Statement - Figure 19.1 Other Developments
CR1-100	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.3.1 Environmental Statement - Figure 3.1 DCO Proposed Development Boundaries

CR1-101	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.3.2 Environmental Statement - Figure 3.2 DCO Proposed Development
CR1-102	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.3.3 Environmental Statement - Figure 3.3 Environmental Features
CR1-103	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.3.4 Environmental Statement - Figure 3.4 Landscape and Ecological Mitigation Plan
CR1-104	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.4.14 Environmental Statement - Figure 4.14 Cornist Lane BVS
CR1-105	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.4.9 Environmental Statement - Figure 4.9 Northop Hall AGI Options
CR1-106	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.6.1 Environmental Statement - Figure 6.1 Construction Dust Study Area
CR1-107	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.6.2 Environmental Statement - Figure 6.2 Operational Study Area
CR1-108	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.4.6.3 Environmental Statement - Figure 6.3 H2S Odour Risk Zone Sheet 1
CR1-109	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.1 Register of Environmental Actions and Commitments (Clean)
CR1-110	<a href="#">Liverpool Bay CCS Limited</a>

	Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.1 Register of Environmental Actions and Commitments (Tracked Changes)
CR1-111	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.13 Outline Surface Water Drainage Strategy (Clean)
CR1-112	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.13 Outline Surface Water Drainage Strategy (Tracked Changes)
CR1-113	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.13.1 Outline Surface Water Drainage Strategy - Annex A - Proposed Development Plans and Topographical Survey
CR1-114	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.13.2 Outline Surface Water Drainage Strategy - Annex B - Proposed Conceptual Drainage Layout and Typical Drainage Construction Detail
CR1-115	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.13.3 Outline Surface Water Drainage Strategy - Annex C - Proposed Storage Calculations
CR1-116	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.13.4 Outline Surface Water Drainage Strategy - Annex D - Correspondences
CR1-117	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.3 Outline Construction Traffic Management Plan (Clean)
CR1-118	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.3 Outline Construction Traffic Management Plan (Tracked Changes)
CR1-119	<a href="#">Liverpool Bay CCS Limited</a>

	Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.4 Outline Construction Environmental Management Plan (Clean)
CR1-120	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.4 Outline Construction Environmental Management Plan (Tracked Changes)
CR1-121	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.6 Habitats Regulations Assessment (Clean)
CR1-122	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.6 Habitats Regulations Assessment (Tracked Changes)
CR1-123	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.1.3 Change Request Cover Letter
CR1-124	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.7 Environmental Statement Addendum Change Request 1
CR1-125	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.7.1 Environmental Statement Addendum Change Request 1 - Appendix A - Technical Appendices Addenda
CR1-126	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.7.2 Environmental Statement Addendum Change Request 1 - Appendix B - Figures
<b>Change Request 2</b>	
CR2-001	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.1.3 Application Document Tracker (Clean)
CR2-002	<a href="#">Liverpool Bay CCS Limited</a>

	Additional Submission - Accepted at the discretion of the Examining Authority - D.1.3 Application Document Tracker (Tracked)
CR2-003	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.1 Location Plan
CR2-004	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.2 Land Plans
CR2-005	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.4 Works Plans
CR2-006	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.5 Access and Rights of Way Plans
CR2-007	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.13 Important Hedgerow Plans
CR2-008	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.3.1 Draft Development Consent Order (Clean)
CR2-009	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.3.1 Draft Development Consent Order (Tracked)
CR2-010	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.3.3 Schedule of Changes to the draft DCO
CR2-011	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.1 Statement of Reasons (Clean)
CR2-012	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.1 Statement of Reasons (Tracked)
CR2-013	<a href="#">Liverpool Bay CCS Limited</a>

	Additional Submission - Accepted at the discretion of the Examining Authority - D.4.3 Book of Reference (Clean)
CR2-014	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.3 Book of Reference (Tracked)
CR2-015	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.3.1 Schedule of Changes to the Book of Reference
CR2-016	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.1.7 Change Request 2 Cover Letter
CR2-017	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.22 2023 Environmental Statement Addendum Change Request 2
CR2-018	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.22.1 Environmental Statement Addendum Change Request 2 - Appendix A - Non-Technical Summary Addenda
CR2-019	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.22.2 Environmental Statement Addendum Change Request 2 - Appendix B - Technical Appendices Addenda
CR2-020	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.22.3 Environmental Statement Addendum Design Change Request 2 - Appendix C - Figures
CR2-021	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.29 Indicative Arrangement - Alltami Brook Embedded Pipe Bridge
CR2-022	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.53 Change Request 2 Consultation Report
<b>Change Request 3</b>	

CR3-001	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.1.10 Change Request 3 Cover Letter
CR3-002	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.1 Location Plan
CR3-003	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.2 Land Plans
CR3-004	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.3 Crown Land Plans
CR3-005	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.4 Works Plans
CR3-006	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.5 Access and Rights of Way Plans
CR3-007	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.2.13 Important Hedgerow Plan
CR3-008	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.3.1 Draft Development Consent Order (Clean)
CR3-009	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.3.1 Draft Development Consent Order (Tracked Change)
CR3-010	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.3.3 Schedule of Changes to the Draft DC
CR3-011	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.1 Statement of Reasons (Clean)
CR3-012	<a href="#">Liverpool Bay CCS Limited</a>



	Additional Submission - Accepted at the discretion of the Examining Authority - D.4.1 Statement of Reasons (Tracked Change)
CR3-013	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.3 Book of Reference (Clean)
CR3-014	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.3 Book of Reference (Tracked Change)
CR3-015	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.4.3.1 Book of Reference – Schedule of Changes
CR3-016	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.13 Outline Surface Water Drainage Strategy (Tracked Change)
CR3-017	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.13 Outline Surface Water Drainage Strategy (Clean)
CR3-018	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.6.5.13.2 OSWDS Annex B - Proposed Conceptual Drainage Layout and Typical Drainage Construction Detail
CR3-019	<a href="#">Liverpool Bay CCS Limited</a> Additional Submission - Accepted at the discretion of the Examining Authority - D.7.47 Change Request 3 Environmental Technical Note
<b>Change Request 1 Relevant Representations – June 2023</b>	
CR1RR-001	<a href="#">Backford Parish Council</a>
CR1RR-002	<a href="#">Canal and River Trust</a>
CR1RR-003	<a href="#">Cheshire West and Chester Borough Council</a>
CR1RR-004	<a href="#">Environment Agency</a>

CR1RR-005	<a href="#">Eversheds Sutherland (International) LLP on behalf of Encirc Limited</a>
CR1RR-006	<a href="#">Flintshire County Council</a>
CR1RR-007	<a href="#">Liverpool Friends of The Earth</a>
CR1RR-008	<a href="#">Nicky Crosby</a>
CR1RR-009	<a href="#">Sacha Rossi</a>
CR1RR-010	<a href="#">Stephens Scown LLP on behalf of Mr and Mrs Oultram (HW Oultram &amp; Co)</a>
CR1RR-011	<a href="#">The Coal Authority</a>
CR1RR-012	<a href="#">United Utilities Water Limited</a>
<b>Change Request 2 Relevant Representations – July 2023</b>	
CR2RR-001	<a href="#">The Coal Authority</a>
CR2RR-002	<a href="#">Natural Resources Wales</a>
<b>Digwyddiadau a Gwrandawiadau / Events and Hearings</b>	
<b>Cyfarfod Rhagarweiniol/ Preliminary Meeting</b>	
EV-001	<p><a href="#">Recordiad o'r Cyfarfod Rhagarweiniol - 20 Mawrth 2023</a></p> <p><a href="#">Recording of Preliminary Meeting – 20 March 2023</a></p>
EV-002	<p><a href="#">Cyfarfod Rhagarweiniol - Trawsgrifiad - 20 Mawrth 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partion â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Sylwer fod trawsgrifiadau yn cael eu cynhyrchu'n awtomatig o recordiadau digidol a gall gynnwys gwallau. Ni fyddwn yn cywiro'r rhain oni bai eu bod yn egwan a byddem yn niweidio enw PINS neu IP. Mae croeso i IPs, gan gynnwys yr Ymgeisydd, gyflwyno fersiynau wedi'u cywiro o'r trawsgrifiad, y byddwn yn ei gyhoeddi fel naill ai cyflwyniad Dyddiad Cau neu AS fel y bo'n briodol. Ni fydd hyn yn disodli'r trawsgrifiad gwreiddiol a gyhoeddwyd. Bydd y cyflwyniadau hyn yn destun polisi ail-olygu PINS.</p> <p><a href="#">Preliminary Meeting - Transcript - 20 March 2023</a></p>

	<p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. Note that transcripts are automatically generated from digital recordings and may contain errors. We will not correct these unless they are egregious and would damage the reputation of PINS or an IP. IPs, including the Applicant, are welcome to submit corrected versions of the transcript, which we will publish as either a Deadline submission or an AS as appropriate. This will not replace the original published transcript. These submissions will be subject to PINS redaction policy.</p>
EV-005	<p><a href="#">Nodyn Cyfarfod Rhagarweiniol (Cymraeg)</a></p> <p><a href="#">Preliminary meeting note (English)</a></p>
<b>Archwiliadau Safle a Gwrandawiadau/ Site Inspections and Hearings</b>	
EV-003	<p><a href="#">Nodyn o Archwiliad Safle Digwmni 1 - 15 Tachwedd 2022 (Cymraeg)</a></p> <p><a href="#">Note of Unaccompanied Site Inspection 1 - 15 November 2022 (English)</a></p>
EV-004	<p><a href="#">Nodyn o Archwiliad Safle Digwmni 2 - 16 Tachwedd 2022 (Cymraeg)</a></p> <p><a href="#">Note of Unaccompanied Site Inspection 2 - 16 November 2022 (English)</a></p>
EV-004a	<p><a href="#">Cofnod yr Awdurdod Archwilio (ExA) o'r Archwiliad Safle Digwmni (USI3) a gynhaliwyd ar 9 Mehefin 2023 (Cymraeg)</a></p> <p><a href="#">The Examining Authority's (ExA) Record of the Unaccompanied Site Inspection (USI3) that took place on 9 June 2023 (English)</a></p>
EV-005	<p><a href="#">Agenda a threfniadau ar gyfer y Gwrandawriad Mater Penodol ar Faterion Amgylcheddol (Cymraeg)</a></p> <p><a href="#">Agenda and arrangements for the Issue Specific Hearing on Environmental Matters (English)</a></p>

EV-006	<p><a href="#">Agenda a threfniadau ar gyfer y Gwrandawriad Caffael Gorfodol (Cymraeg)</a></p> <p><a href="#">Agenda and arrangements for the Compulsory Acquisition Hearing (English)</a></p>
EV-007	<p><a href="#">Agenda ar gyfer Gwrandawriad Mater Penodol 2 yn ymdrin â materion yn ymwneud â'r Gorchymyn Caniatâd Datblygu (DCO) drafft (Cymraeg)</a></p> <p><a href="#">Agenda for Issue Specific Hearing 2 dealing with matters relating to the draft Development Consent Order (DCO) (English)</a></p>
<p><b>Gwrandawriad Materion Penodol ar Faterion Amgylcheddol (ISH1) – 06 Mehefin 2023 / Issue Specific Hearing on Environmental Matters (ISH1) – 06 June 2023</b></p>	
EV-008	<p><a href="#">Recordiad o'r Gwrandawriad Materion Penodol ar Faterion Amgylcheddol (ISH1) - Rhan 1 - 06 Mehefin 2023</a></p> <p><a href="#">Recording of Issue Specific Hearing on Environmental Matters (ISH1) - Part 1 - 06 June 2023</a></p>
EV-009	<p><a href="#">Recordiad o'r Gwrandawriad Materion Penodol ar Faterion Amgylcheddol (ISH1) - Rhan 2 - 06 Mehefin 2023</a></p> <p><a href="#">Recording of Issue Specific Hearing on Environmental Matters (ISH1) - Part 2 - 06 June 2023</a></p>
EV-010	<p><a href="#">Recordiad o'r Gwrandawriad Materion Penodol ar Faterion Amgylcheddol (ISH1) - Rhan 3 - 06 Mehefin 2023</a></p> <p><a href="#">Recording of Issue Specific Hearing on Environmental Matters (ISH1) - Part 3 - 06 June 2023</a></p>

EV-011	<p><a href="#">Gwrandawriad Materion Penodol ar Faterion Amgylcheddol (ISH1) - Rhan 1- Trawsgrifiad - 06 Mehefin 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu.</p> <p><a href="#">Issue Specific Hearing on Environmental Matters (ISH1) - Part 1 - Transcript - 06 June 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.</p>
EV-012	<p><a href="#">Gwrandawriad Materion Penodol ar Faterion Amgylcheddol (ISH1) - Rhan 2- Trawsgrifiad - 06 Mehefin 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu.</p> <p><a href="#">Issue Specific Hearing on Environmental Matters (ISH1) - Part 2 - Transcript - 06 June 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.</p>
EV-013	<p><a href="#">Gwrandawriad Materion Penodol ar Faterion Amgylcheddol (ISH1) - Rhan 3 - Trawsgrifiad - 06 Mehefin 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu.</p> <p><a href="#">Issue Specific Hearing on Environmental Matters (ISH1) - Part 3 - Transcript - 06 June 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.</p>
<p><b>Gwrandawriad Caffael Gorfodol (CAH) Compulsory – 07 Mehefin 2023/ Acquisition Hearing (CAH) – 07 June 2023</b></p>	

EV-014	<p><a href="#">Gwrandawriad Caffael Gorfodol (CAH) - Rhan 1 - 07 Mehefin 2023</a></p> <p><a href="#">Recording of Compulsory Acquisition Hearing (CAH) - Part 1 - 07 June 2023</a></p>
EV-015	<p><a href="#">Gwrandawriad Caffael Gorfodol (CAH) - Rhan 2 - 07 Mehefin 2023</a></p> <p><a href="#">Recording of Compulsory Acquisition Hearing (CAH) - Part 2 - 07 June 2023</a></p>
EV-016	<p><a href="#">Gwrandawriad Caffael Gorfodol (CAH) - Rhan 3 - 07 Mehefin 2023</a></p> <p><a href="#">Recording of Compulsory Acquisition Hearing (CAH) - Part 3 - 07 June 2023</a></p>
EV-017	<p><a href="#">Gwrandawriad Caffael Gorfodol (CAH) - Rhan 1 - Trawsgrifiad - 07 Mehefin 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu.</p> <p><a href="#">Compulsory Acquisition Hearing (CAH) - Part 1 - Transcript- 07 June 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.</p>
EV-018	<p><a href="#">Gwrandawriad Caffael Gorfodol (CAH) - Rhan 2 - Trawsgrifiad - 07 Mehefin 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu.</p> <p><a href="#">Compulsory Acquisition Hearing (CAH) - Part 2 - Transcript- 07 June 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.</p>

EV-019	<p><a href="#">Gwrandawriad Caffael Gorfodol (CAH) - Rhan 3 - Trawsgrifiad - 07 Mehefin 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu.</p> <p><a href="#">Compulsory Acquisition Hearing (CAH) - Part 3 - Transcript- 07 June 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.</p>
<p><b>Gwrandawriad Materion Penodol ar y Gorchymyn Caniatâd Datblygu draft (ISH2) – 08 Mehefin 2023 /Issue Specific Hearing on the draft Development Consent Order (ISH2)- 08 June 2023</b></p>	
EV-020	<p><a href="#">Recordiad o'r Gwrandawriad Materion Penodol ar y Gorchymyn Caniatâd Datblygu draft (ISH2) - Rhan 1 - 08 Mehefin 2023</a></p> <p><a href="#">Recording of Issue Specific Hearing on the draft Development Consent Order (ISH2) - Part 1 - 08 June 2023</a></p>
EV-021	<p><a href="#">Recordiad o'r Gwrandawriad Materion Penodol ar y Gorchymyn Caniatâd Datblygu draft (ISH2) - Rhan 2 - 08 Mehefin 2023</a></p> <p><a href="#">Recording of Issue Specific Hearing on the draft Development Consent Order (ISH2) - Part 2 - 08 June 2023</a></p>
EV-022	<p><a href="#">Recordiad o'r Gwrandawriad Materion Penodol ar y Gorchymyn Caniatâd Datblygu draft (ISH2) - Rhan 3 - 08 Mehefin 2023</a></p> <p><a href="#">Recording of Issue Specific Hearing on the draft Development Consent Order (ISH2) - Part 3 - 08 June 2023</a></p>
EV-023	<p><a href="#">Gwrandawriad Materion Penodol ar y Gorchymyn Caniatâd Datblygu draft (ISH2) - Rhan 1 - Trawsgrifiad - 08 Mehefin 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu.</p>

	<p><a href="#">Issue Specific Hearing on the draft Development Consent Order (ISH2) - Part 1 - Transcript - 08 June 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.</p>
EV-024	<p><a href="#">Gwrandawriad Materion Penodol ar y Gorchymyn Caniatâd Datblygu draft (ISH2) - Rhan 2 - Trawsgrifiad - 08 Mehefin 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu.</p> <p><a href="#">Issue Specific Hearing on the draft Development Consent Order (ISH2) - Part 2 - Transcript - 08 June 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.</p>
EV-025	<p><a href="#">Gwrandawriad Materion Penodol ar y Gorchymyn Caniatâd Datblygu draft (ISH2) - Rhan 3 - Trawsgrifiad - 08 Mehefin 2023</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu.</p> <p><a href="#">Issue Specific Hearing on the draft Development Consent Order (ISH2) - Part 3 - Transcript - 08 June 2023</a></p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.</p>
EV-026	<p><a href="#">Pwyntiau camau yn dilyn Gwrandawriadau Mater Penodol 1, 2 a Chaffael Gorfodol 1</a></p> <p>Pwyntiau camau yn dilyn Gwrandawriadau Mater Penodol 1, 2 a Chaffael Gorfodol 1</p> <p><a href="#">Action points arising from Issue Specific Hearing 1 ,Compulsory Acquisition Hearing 1 and Issue Specific Hearing 2</a></p>



	Action points arising from Issue Specific Hearing 1 (ISH1) (Environmental Matters), Compulsory Acquisition Hearing 1 (CAH1) and Issue Specific Hearing 2 (ISH2) (Development Consent Order)
<b>Archwiliadau Safle a Gwrandawiadau/ Site Inspections and Hearings</b>	
EV-027	<p><a href="#">Agendâu ar gyfer Gwrandawiad Mater Penodol 3 (ISH3), Gwrandawiad Caffael Gorfodol 2 (CAH2) a Gwrandawiad Llawr Agored (Cymraeg)</a></p> <p>Agendâu ar gyfer Gwrandawiad Mater Penodol 3 (ISH3) ar Faterion Amgylcheddol a'r Gorchymyn Caniatâd Datblygu (DCO) drafft, yn ogystal â materion a drafodwyd yn ISH 1 a 2; Gwrandawiad Caffael Gorfodol 2 (CAH2); a'r Gwrandawiad Llawr Agored (OFH1)</p> <p><a href="#">Agendas for Issue Specific Hearing 3 (ISH3), Compulsory Acquisition Hearing 2 (CAH2) and Open Floor Hearing (English)</a></p> <p>Agendas for Issue Specific Hearing 3 (ISH3) on Environmental Matters and the draft Development Consent Order (DCO), as well as matters discussed at ISHs 1 to 2; Compulsory Acquisition Hearing 2 (CAH2); and Open Floor Hearing (OFH1)</p>
<b>Gwrandawiad Mater Penodol 3 (ISH3) / Issue Specific Hearing 3 (ISH3) – 09 August 2023</b>	
EV-028	<p><a href="#">Gwrandawiad Mater Penodol 3 (ISH3) Gwrandawiadau wedi'u pentyrru ynghylch materion amgylcheddol a'r DCO - Rhan 1</a></p> <p><a href="#">Recording of Issue Specific Hearing 3 (ISH3) on Environmental Matters and the DCO - Part 1 - Wednesday 9 August 2023</a></p>
EV-029	<p><a href="#">Gwrandawiad Mater Penodol 3 (ISH3) Gwrandawiadau wedi'u pentyrru ynghylch materion amgylcheddol a'r DCO - Rhan 2</a></p> <p><a href="#">Recording of Issue Specific Hearing 3 (ISH3) on Environmental Matters and the DCO - Part 2 - Wednesday 9 August 2023</a></p>
EV-030	<p><a href="#">Gwrandawiad Mater Penodol 3 (ISH3) Gwrandawiadau wedi'u pentyrru ynghylch materion amgylcheddol a'r DCO - Rhan 3</a></p> <p><a href="#">Recording of Issue Specific Hearing 3 (ISH3) on Environmental Matters and the DCO - Part 3 - Wednesday 9 August 2023</a></p>
EV-031	<p><a href="#">Gwrandawiad Mater Penodol 3 (ISH3) Gwrandawiadau wedi'u pentyrru ynghylch materion amgylcheddol a'r DCO - Rhan 1 - Trawsgrifiad</a></p> <p>Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artifisial ac nid yw'n cael ei olygu.</p>

	<p><a href="#">Transcript of Issue Specific Hearing 3 (ISH3) on Environmental Matters and the DCO - Part 1 - Wednesday 9 August 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.</p>
EV-032	<p><a href="#">Gwrandawriad Mater Penodol 3 (ISH3) Gwrandawiadau wedi'u pentyrru ynghylch materion amgylcheddol a'r DCO - Rhan 2 - Trawsgrifiad</a> Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu.</p> <p><a href="#">Transcript of Issue Specific Hearing 3 (ISH3) on Environmental Matters and the DCO - Part 2 - Wednesday 9 August 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.</p>
EV-033	<p><a href="#">Gwrandawriad Mater Penodol 3 (ISH3) Gwrandawiadau wedi'u pentyrru ynghylch materion amgylcheddol a'r DCO - Rhan 3 - Trawsgrifiad</a> Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu.</p> <p><a href="#">Transcript of Issue Specific Hearing 3 (ISH3) on Environmental Matters and the DCO - Part 3 - Wednesday 9 August 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.</p>
<b>Gwrandawriad Caffael Gorfodol 2 / Compulsory Acquisition Hearing 2 – 10 August 2023</b>	
EV-034	<p><a href="#">Gwrandawriad Caffael Gorfodol 2 - Rhan 1</a> <a href="#">Recording of Compulsory Acquisition Hearing 2 (CAH2) - Part 1 - Thursday 10 August 2023</a></p>
EV-035	<p><a href="#">Gwrandawriad Caffael Gorfodol 2 - Rhan 2</a> <a href="#">Recording of Compulsory Acquisition Hearing 2 (CAH2) - Part 2 - Thursday 10 August 2023</a></p>
EV-036	<p><a href="#">Gwrandawriad Caffael Gorfodol 2 - Rhan 1 - Trawsgrifiad</a> Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu.</p> <p><a href="#">Transcript of Compulsory Acquisition Hearing 2 (CAH2) - Thursday 10 August 2023</a></p>

	This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.
EV-037	<p><a href="#">Gwrandawriad Caffael Gorfodol 2 - Rhan 2 - Trawsgrifiad</a> Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant (IP), nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu.</p> <p><a href="#">Transcript of Compulsory Acquisition Hearing 2 (CAH2) - Thursday 10 August 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.</p>
<b>Gwrandawriad Llwr Agored - 10 Awst 2023 / Open Floor Hearing - 10 August 2023</b>	
EV-038	<p><a href="#">Recordiad o'r Gwrandawriad Llwr Agored - Rhan 1 - 10 Awst 2023</a> <a href="#">Recording of Open Floor Hearing - Part 1 - 10 August 2023</a></p>
EV-039	<p><a href="#">Recordiad o'r Gwrandawriad Llwr Agored - Rhan 2 - 10 Awst 2023</a> <a href="#">Recording of Open Floor Hearing - Part 2 - 10 August 2023</a></p>
EV-040	<p><a href="#">Gwrandawriad Llwr Agored Trawsgrifiad - Rhan 1 - 10 Awst 2023</a> Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Open Floor Hearing Transcript - Part 1 - 10 August 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.</p>
EV-041	<p><a href="#">Gwrandawriad Llwr Agored Trawsgrifiad - Rhan 2 - 10 Awst 2023</a> Bwriad y ddogfen hon yw i gynorthwyo Partïon â Buddiant, nid yw'n air am air. Cynhyrchir y cynnwys gan ddefnyddio llais i'r testun deallusrwydd artiffisial ac nid yw'n cael ei olygu. Mae'r recordiad fideo yn parhau fel prif gofnod y digwyddiad.</p> <p><a href="#">Open Floor Hearing Transcript - Part 2 - 10 August 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.</p>

<b>Archwiliadau Safle a Gwrandawiadau/ Site Inspections and Hearings</b>	
EV-042	<a href="#">Pwyntiau Gweithredu o ISH3, CAH2 ac OFH (Cymreag)</a>  <a href="#">Action Points from ISH3, CAH2 and OFH (English)</a>
<b>Cynrychiolaethau/ Representations</b>	
<p><b>Dyddiad Cau Gweithdrefnol A/ Procedural Deadline A - Thursday 9 March 2023</b></p> <p><b>Dyddiad Cau i'r Awdurdod Archwilio dderbyn:</b></p> <ul style="list-style-type: none"> <li>• Cyflwyniadau ysgrifenedig ar weithdrefn yr Archwiliad, gan gynnwys unrhyw gyflwyniadau am ddefnyddio gweithdrefnau rhithiol.</li> </ul> <p><b>Deadline for receipt by the ExA of:</b></p> <ul style="list-style-type: none"> <li>• Written submissions on the Examination procedure, including any submissions about the use of virtual procedures.</li> <li>• Notification of wish to speak at the Preliminary Meeting.</li> <li>• Submission of suggested locations to be included in any Accompanied Site Inspection (ASI).</li> </ul>	
PDA-001	<a href="#">Liverpool Bay CCS Limited</a> Procedural Deadline A Submission - D.7.1.3 Cover Letter
PDA-002	<a href="#">Liverpool Bay CCS Limited</a> Procedural Deadline A Submission - D.7.6 Applicant's suggested locations for accompanied site inspections
PDA-003	<a href="#">Canal and River Trust</a> Procedural Deadline A Submission
PDA-004	<a href="#">Cheshire West and Chester Borough Council</a> Procedural Deadline A Submission
PDA-005	<a href="#">Flintshire County Council</a>

	Procedural Deadline A Submission
PDA-006	<a href="#">Stephens Scown LLP on behalf of Mr and Mrs Oultram</a> Procedural Deadline A Submission
PDA-007	<a href="#">National Highways</a> Procedural Deadline A Submission
PDA-008	<a href="#">Eversheds Sutherland (International) LLP on behalf of Network Rail Infrastructure Limited</a> Procedural Deadline A Submission
PDA-009	<a href="#">Turley on behalf of Peel NRE</a> Procedural Deadline A Submission
PDA-010	<a href="#">Travelodge UK</a> Procedural Deadline A Submission

**Dyddiad Cau 1 17 Ebrill 2023 / Deadline 1 – 17 April 2023**

**Dyddiad cau i'r Awdurdod Archwilio dderbyn y canlynol:**

- Crynodebau ysgrifenedig o gyflwyniadau llafar i'r Cyfarfod Rhagarweiniol.
- Unrhyw gyflwyniadau ar ôl y Cyfarfod Rhagarweiniol a geisiwyd gan yr Awdurdod Archwilio.
- Ymatebion i ExQ1 yr Awdurdod Archwilio.
- Gorchymyn Caniatâd Datblygu drafft (dDCO) cyfredol mewn fersiwn lân, fersiwn sy'n dangos y newidiadau a fersiwn Word (yn ôl y gofyn).
- Sylwadau ar y Cyflwyniadau Perthnasol (RRau).
- Sylwadau ar Gyflwyniadau Ychwanegol (gweler Atodiad E o'n llythyr Rheol 6).
- Adroddiad Effaith Leol Drafft (LIR) gan Awdurdodau Lleol, os yw ar gael.
- Datganiadau Tir Cyffredin (DTCau) a geisiwyd gan yr Awdurdod Archwilio – (gweler Atodiad E E o'n llythyr Rheol 6).

- Datganiad Cyffredinrwydd ar gyfer Datganiadau Tir Cyffredin. Rhestr Caffael Gorfodol (CA) / Meddiant Dros Dro (TP), gan gynnwys Rhestr Tir a Hawliau Ymgwymerwyr Statudol a127 a Rhestr Cyfarpar Ymgwymerwyr Statudol a138.
- Llyfr Cyfeirio (BoR) cyfredol a Rhestr o'r Newidiadau i'r Llyfr Cyfeirio (fersiwn lân a fersiwn yn dangos y newidiadau) (yn ôl y gofyn).
- Rhestr o'r Newidiadau i'r dDCO (yn ôl y gofyn).
- Traciwr Dogfennau'r Cais wedi'i ddiweddarau mewn fersiwn lân a fersiwn sy'n dangos y newidiadau (yn ôl y gofyn).
- Traciwr Datganiadau Polisi Cenedlaethol (NPS) cychwynnol a darparu dogfen sy'n rhoi diweddiadau yn ymwneud â phrosbectws y Fframwaith Polisi Cynllunio Cenedlaethol (NPPF) (Rhagfyr 2022) a dull arfaethedig y Llywodraeth ar gyfer Polisiâu Rheoli Datblygu Cenedlaethol (NDMP), fel sy'n berthnasol i'r Cais NSIP (yn ôl y gofyn).
- Sylwadau ysgrifenedig (WRau) (gan gynnwys crynodebau o'r holl sylwadau sy'n fwy na 1500 gair).
- Hysbysiad o ddymuniad i siarad mewn Gwrandawriad Llawr Agored.
- Hysbysiad o ddymuniad i siarad mewn Gwrandawriad Caffael Gorfodol.
- Sylwadau ar y lleoliadau awgrymedig i'w cynnwys mewn unrhyw Arolygiad Safle â Chwmni a gyflwynwyd erbyn Dyddiad Cau Gweithdrefnol A.
- Amserlen ddrafft yr Apelydd ar gyfer Arolygiad Safle â Chwmni.
- Hysbysiad gan unrhyw Bartion Statudol nad ydynt wedi cyflwyno Sylwadau Perthnasol o'u dymuniad i gael eu hystyried yn Bartion â Buddiant.
- Diweddiariad yr Ymgeisydd ar y cais am Drwydded Forol (ML) a chynnydd.
- Unrhyw wybodaeth bellach a geisiwyd gan yr Awdurdod Archwilio.

**Deadline for receipt by the ExA of:**

- Written summaries of oral submissions to the PM.
- Any post-PM submissions requested by the ExA.
- Responses to ExA's ExQ1.
- An updated draft Development Consent Order (dDCO) in clean, tracked and Word versions (if required).
- Comments on Relevant Representations (RRs).
- Comments on Additional Submissions
- Local Impact Report (LIR) from Local Authorities
- Statements of Common Ground (SoCG) requested by ExA
- Statement of Commonality for SoCG.
- A Compulsory Acquisition (CA)/ Temporary Possession (TP) Schedule, including s127 Statutory Undertakers' Land and Rights Schedule and s138 Statutory Undertakers' Apparatus Schedule. • Updated Book of

<p>Reference (BoR) and Schedule of Changes to the BoR (in clean and tracked versions) (if required).</p> <ul style="list-style-type: none"> <li>• A Schedule of Changes to the dDCO (if required).</li> <li>• An updated Application Document Tracker, in clean and tracked versions (if required).</li> <li>• Initial National Policy Statement (NPS) tracker and provision of a document that provides updates in regard to the draft National Planning Policy Framework (NPPF) prospectus (December 2022) and the Governments proposed approach to National Development Management Policies (NDMP), as relevant to the NSIP Application (if required).</li> <li>• Written representations (WRs) (including summaries of all WRs exceeding 1500 words).</li> <li>• Notification of wish to speak at an Open Floor Hearing.</li> <li>• Notification of wish to speak at a Compulsory Acquisition Hearing.</li> <li>• Notification of wish to attend ASI.</li> <li>• Comments on the suggested locations to be included in any ASI submitted at Procedural Deadline A.</li> <li>• The Applicant’s draft itinerary for an ASI.</li> <li>• Notification by any Statutory Parties who have not submitted a RR of their wish to be considered as an IP.</li> <li>• Applicant’s update on the Marine Licence (ML) submission and progress.</li> <li>• Any further information requested by the ExA.</li> </ul>	
REP1-001	<p><a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.1.4 Cover Letter</p>
REP1-002	<p><a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.1.3 Application Document Tracker (Clean)</p>
REP1-003	<p><a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.1.3 Application Document Tracker (Tracked)</p>
REP1-004	<p><a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.3.1 Draft Development Consent Order (Clean)</p>
REP1-005	<p><a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.3.1 Draft Development Consent Order (Tracked)</p>
REP1-006	<p><a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.3.2 Explanatory Memorandum (Clean)</p>
REP1-007	<p><a href="#">Liverpool Bay CCS Limited</a></p>

	Deadline 1 Submission - D.3.2 Explanatory Memorandum (Tracked)
REP1-008	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.3.3 Schedule of Changes to the Draft DCO
REP1-009	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.4.1.1 Schedule of Negotiations (Clean)
REP1-010	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.4.1.1 Schedule of Negotiations (Tracked)
REP1-011	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.5.2 Other Consents and Licences (Clean)
REP1-012	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.5.2 Other Consents and Licences (Tracked)
REP1-013	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.5.4 Planning Statement (Clean)
REP1-014	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.5.4 Planning Statement (Tracked)
REP1-015	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.6.5.1 Register of Environmental Actions and Commitments (REAC)(Clean)
REP1-016	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.6.5.1 Register of Environmental Actions and Commitments (REAC) (Tracked)
REP1-017	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.6.5.4 Outline Construction Environmental Management Plan (OCEMP) (Clean)
REP1-018	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.6.5.4 Outline Construction Environmental Management Plan (OCEMP) (Tracked)
REP1-019	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2 Statement of Commonality for Statements of Common Ground



REP1-020	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.1 Statement of Common Ground - Flintshire County Council
REP1-021	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.2 Statement of Common Ground - Cheshire West and Chester Council
REP1-022	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.3 Statement of Common Ground - Natural England
REP1-023	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.4 Statement of Common Ground - Natural Resources Wales
REP1-024	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.5 Statement of Common Ground - Environment Agency
REP1-025	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.6 Statement of Common Ground - Historic England
REP1-026	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.7 Statement of Common Ground - Cadw
REP1-027	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.8 Statement of Common Ground - Peel NRE Limited
REP1-028	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.9 Statement of Common Ground - National Highways
REP1-029	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.10 Statement of Common Ground - Welsh Government
REP1-030	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.11 Statement of Common Ground - Canal & River Trust
REP1-031	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 1 Submission - D.7.2.12 Statement of Common Ground - Cadent Gas
REP1-032	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.13 - Statement of Common Ground - Essar Oil (UK) Limited
REP1-033	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.15 Statement of Common Ground - British Pipeline Agency
REP1-034	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.16 Statement of Common Ground - National Grid Electricity Transmission
REP1-035	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.17 Statement of Common Ground - United Utilities
REP1-036	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.19 Statement of Common Ground - National Gas Transmission
REP1-037	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.26 Statement of Common Ground - Network Rail
REP1-038	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.27 Statement of Common Ground - 2 Sisters Food Group
REP1-039	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.2.29 Statement of Common Ground - CF Fertilisers UK Limited
REP1-040	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.6 Applicant's draft itinerary for an Accompanied Site Inspection (Clean)
REP1-041	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.6 Applicant's draft itinerary for an Accompanied Site Inspection (Tracked)
REP1-042	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.8 Applicant's Response to the Relevant Representations
REP1-043	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 1 Submission - D.7.9 Outline Public Rights of Way Management Plan
REP1-044	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.10 Applicant's Response to ExA's ExQ1
REP1-045	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.10.1 Appendix A - Schedule of Additional Baseline Data
REP1-046	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.10.2 Appendix B - Potential Economic Impacts of the HyNet North West Project
REP1-047	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.10.3 Appendix C - Hilbre Island and Internationally Designated Sites Figure (Rev A)
REP1-048	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.11 Applicant's Written Summary of Oral Submissions
REP1-049	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.12 Compulsory Acquisition (CA) & Temporary Possessions (TP) Schedule
REP1-050	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.13 National Policy Statement Tracker
REP1-051	<a href="#">Liverpool Bay CCS Limited</a> Deadline 1 Submission - D.7.15 Outline Operational and Maintenance Environmental Management Plan (OMEMP)
REP1-052	<a href="#">Cadent Gas</a> Deadline 1 Submission - Responses to ExA's ExQ1
REP1-053	<a href="#">Cadw</a> Deadline 1 Submission - Response to ExA's ExQ1
REP1-054	<a href="#">Canal and River Trust</a> Deadline 1 Submission - Cover Letter and Statement of Common Ground
REP1-055	<a href="#">Canal and River Trust</a> Deadline 1 Submission - Written Representation
REP1-056	<a href="#">Canal and River Trust</a>

	Deadline 1 Submission- Responses to ExA's ExQ1
REP1-057	<a href="#">Canal and River Trust</a> Deadline 1 Submission- Protective Provisions - Appendix C
REP1-058	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 1 Submission - Cover letter
REP1-059	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 1 Submission - Responses to ExA's ExQ1
REP1-060	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 1 Submission- Responses to ExA's ExQ1- Appendix 1
REP1-061	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 1 Submission - Written Representation
REP1-062	<a href="#">Environment Agency</a> Deadline 1 Submission - Written representation and Response to ExA's ExQ1
REP1-063	<a href="#">Flintshire County Council</a> Deadline 1 Submission - Draft Local Impact Report
REP1-064	<a href="#">Historic England</a> Deadline 1 Submission - Written Representation
REP1-065	<a href="#">Ministry of Defence (MOD)</a> Deadline 1 Submission
REP1-066	<a href="#">National Gas Transmission Plc (NGT)</a> Deadline 1 Submission- Protective Provisions
REP1-067	<a href="#">National Grid Electricity Transmission Plc (NGET)</a> Deadline 1 Submission - Protective Provisions
REP1-068	<a href="#">National Highways</a> Deadline 1 Submission- Responses to ExA's ExQ1
REP1-069	<a href="#">National Highways</a> Deadline 1 Submission - Written Representation
REP1-070	<a href="#">Natural England</a> Deadline 1 Submission - Written representations and Response to ExA's ExQ1
REP1-071	<a href="#">Natural Resources Wales</a>

	Deadline 1 Submission - Written representations and Response to ExA's ExQ1
REP1-072	<a href="#">Network Rail</a> Deadline 1 Submission - Written Representation
REP1-073	<a href="#">Peel NRE</a> Deadline 1 Submission - Comments on the Applicant's draft itinerary for the Accompanied Site Inspection (ASI)
REP1-074	<a href="#">Peel NRE</a> Deadline 1 Submission - Written Representation
REP1-075	<a href="#">Peel NRE</a> Deadline 1 Submission- Response to ExA's ExQ1
REP1-076	<a href="#">Royal Mail</a> Deadline 1 Submission
REP1-077	<a href="#">Flintshire County Council</a> Deadline 1 Submission - Responses to ExA's ExQ1
REP1-078	<a href="#">Woodland Trust</a> Deadline 1 Submission - Written Representation
REP1-079	<a href="#">Rostons on behalf of Emma Clare Craven-Smith-Milnes and Anthony David Wynne Griffith</a> Deadline 1 Submission - Written Representation
REP1-080	<a href="#">Rostons on behalf of John Horace George Bletcher</a> Deadline 1 Submission - Written Representation
REP1-081	<a href="#">Rostons on behalf of Richard Benjamin Jones</a> Deadline 1 Submission - Written Representation
REP1-082	<a href="#">Stephens Scown LLP on behalf of Stephen Oultram and Catherine Oultram</a> Deadline 1 Submission - Written Representation
REP1-083	<a href="#">Steven Andrew</a> Deadline 1 Submission
REP1-084	<a href="#">Environment Agency</a> Deadline 1 Submission - Late Submission - Accepted at the discretion of the Examining Authority
REP1-085	<a href="#">Peel NRE</a>

	Deadline 1 Submission - Written Representation Appendices 1-17
<p><b>Dyddiad Cau 1A – 26 Ebrill 2023 / Deadline 1A – 26 April 2023</b></p> <p><b>Dyddiad cau i'r Awdurdod Archwilio dderbyn y canlynol:</b></p> <ul style="list-style-type: none"> <li>LIR(au) gan Awdurdodau Lleol</li> </ul> <p><b>Deadline for receipt by the ExA of:</b></p> <ul style="list-style-type: none"> <li>LIR(s) from Local Authorities</li> </ul>	
REP1A-001	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 1A Submission - Cover letter
REP1A-002	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 1A Submission - Local Impact Report (LIR)
REP1A-003	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 1A Submission - Local Impact Report Appendix A - Application List
REP1A-004	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 1A Submission - Addendum to Written Representations (Biodiversity) submitted at DL1
REP1A-005	<a href="#">Flintshire County Council</a> Deadline 1A Submission - Final Local Impact Report as approved by Flintshire County Council Cabinet Meeting on 25 April 2023
REP1A-006	<a href="#">Flintshire County Council</a> Deadline 1A Submission - Local Impact Report (LIR) Appendices referred to within the Local Impact Report
<p><b>Dyddiad Cau 2 – 10 Mai 2023 / Deadline 2 – 10 May 2023</b></p> <p><b>Dyddiad Cau i'r Awdurdod Archwilio dderbyn:</b></p>	

- Sylwadau ar unrhyw gyflwyniadau a gafwyd erbyn DC1, gan gynnwys Sylwadau Ysgrifenedig, ac unrhyw dDCO cyfredol, ynghyd ag amserlen ddrafft yr Ymgeisydd ar gyfer yr Arolygiad Safle â Chwmni.
- Sylwadau ar y LIR(au) a gyflwynwyd yn DC1A.
- Ymatebion i'r sylwadau ar y Sylwadau Perthnasol.
- Sylwadau ar ymatebion i ExQ1 yr Awdurdod Archwilio.
- Rhestr gyfredol o'r CA / TP mewn fersiwn lân, fersiwn sy'n dangos y newidiadau a fersiwn Word (yn ôl y gofyn).
- Llyfr Cyfeirio (BoR) cyfredol a Rhestr o'r Newidiadau i'r Llyfr Cyfeirio (fersiwn lân a fersiwn yn dangos y newidiadau) (yn ôl y gofyn).
- dDCO cyfredol mewn fersiwn lân, fersiwn sy'n dangos y newidiadau a fersiwn Word (yn ôl y gofyn).
- Rhestr o'r Newidiadau i'r dDCO wedi'i diweddaru (yn ôl y gofyn).
- Traciwr Dogfennau'r Cais wedi'i ddiweddaru mewn fersiwn lân a fersiwn sy'n dangos y newidiadau a fersiwn Word.
- Traciwr NPS / Traciwr Prosbectws NPPF / Traciwr NDMP, fel sy'n berthnasol i'r Cais NSIP (yn ôl y gofyn) mewn fersiwn lân a fersiwn sy'n dangos y newidiadau.
- Datganiad o gynnydd ar y Datganiadau Tir Cyffredin sy'n weddill a chyflwyno'r Datganiadau Tir Cyffredin a gwblhawyd ers DC1.
- Datganiad Cyffredinrwydd ar gyfer Datganiadau Tir Cyffredin (gweler Atodiad E o'n llythyr Rheol 6) (yn ôl y gofyn).
- Diweddariad ar y Drwydded Forol (yn ôl y gofyn).
- Unrhyw wybodaeth bellach a geisiwyd gan yr Awdurdod Archwilio.

**Deadline for receipt by the ExA of:**

- Comments on any submissions received at DL1, including WRs, any updated dDCO and the Applicant's draft itinerary for the ASI.
- Comments on the LIR(s) submitted at DL1A.
- Responses to comments on RRs.
- Comments on responses to ExA's ExQ1.
- An updated CA/ TP Schedule in clean, tracked and Word versions (if required).
- Updated BoR and Schedule of Changes to the BoR, in clean and tracked versions (if required).
- An updated dDCO in clean, tracked and Word versions (if required).
- An updated Schedule of Changes to the dDCO (if required).
- An updated Application Document Tracker, in clean, tracked and Word versions.
- An updated NPS tracker/ NPPF Prospectus Tracker/ NDMP Tracker, as relevant to the NSIP Application (if required) in clean and tracked versions.
- A statement of progress on SoCG that remain outstanding and submission of SoCG not completed at DL1.
- Statement of Commonality of SoCG (See Annex E of our Rule 6 letter) (if required).
- Update on the ML (if required).

<ul style="list-style-type: none"> <li>Any further information requested by the ExA.</li> </ul>	
REP2-001	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.1.5 Cover Letter
REP2-002	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.1.3 Application Document Tracker (Clean)
REP2-003	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.1.3 Application Document Tracker (Tracked)
REP2-004	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.2.2 Land Plans
REP2-005	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.2.4 Works Plans
REP2-006	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.2.8 BVS Elevation Plans
REP2-007	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.2.11 AGI Elevation Plans
REP2-008	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.4.1 Statement of Reasons (Clean)
REP2-009	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.4.1 Statement of Reasons (Tracked)
REP2-010	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.4.1.1 Schedule of Negotiation with Land Interests (Clean)
REP2-011	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.4.1.1 Schedule of Negotiation with Land Interests (Tracked)
REP2-012	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.4.3 Book of Reference (Clean)
REP2-013	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.4.3 Book of Reference (Tracked)
REP2-014	<a href="#">Liverpool Bay CCS Limited</a>



	Deadline 2 Submission - D.4.3.1 Schedule of Changes to the Book of Reference
REP2-015	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.5.4 Planning Statement (Clean)
REP2-016	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.5.4 Planning Statement (Tracked)
REP2-017	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.6.5.1 Register of Environmental Actions and Commitments (REAC) (Clean)
REP2-018	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.6.5.1 Register of Environmental Actions and Commitments (REAC) (Tracked)
REP2-019	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.6.5.3 Outline Construction Traffic Management Plan (OCTMP) (Clean)
REP2-020	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.6.5.3 Outline Construction Traffic Management Plan (OCTMP) (Tracked)
REP2-021	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.6.5.4 Outline Construction Environmental Management Plan (OCEMP) (Clean)
REP2-022	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.6.5.4 Outline Construction Environmental Management Plan (OCEMP) (Tracked)
REP2-023	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.6.5.6 Habitats Regulations Assessment (Clean)
REP2-024	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.6.5.6 Habitats Regulations Assessment (Tracked)
REP2-025	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.2 Applicant's Statement of Commonality for SoCG
REP2-026	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.2.1 Statement of Common Ground - Flintshire County Council

REP2-027	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.2.2 Statement of Common Ground - Cheshire West and Chester Council
REP2-028	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.2.8 Statement of Common Ground - Peel NRE Limited
REP2-029	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.2.9 Statement of Common Ground - National Highways
REP2-030	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.2.18 Statement of Common Ground - Exolum Pipeline Systems
REP2-031	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.2.26 Statement of Common Ground - Network Rail
REP2-032	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.2.29 Statement of Common Ground - CF Fertilisers UK Limited
REP2-033	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.2.36 Statement of Common Ground - Encirc
REP2-034	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.13 National Policy Statement Tracker (Clean)
REP2-035	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.13 National Policy Statement Tracker (Tracked)
REP2-036	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.15 Outline Operational and Maintenance Environmental Management Plan (OMEMP) (Clean)
REP2-037	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.15 Outline Operational and Maintenance Environmental Management Plan (OMEMP) (Tracked)
REP2-038	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.16 Applicant's Comments on Responses to ExA's First Written Questions

REP2-039	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.17 Applicant's Response to Deadline 1 Submissions
REP2-040	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.18 Applicant's Response to Local Impact Reports (LIR's)
REP2-041	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.19 Applicant's Responses to Written Representations
REP2-042	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.23 Draft Biodiversity Net Gain (BNG) Strategy Update
REP2-043	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.24 Outline Dust Management Plan
REP2-044	<a href="#">Liverpool Bay CCS Limited</a> Deadline 2 Submission - D.7.25 Outline Odour Management Plan
REP2-045	<a href="#">Cheshire West and Chester Council</a> Deadline 2 Submission - Cover Letter
REP2-046	<a href="#">Cheshire West and Chester Council</a> Deadline 2 Submission - Responses to Comments on Relevant Representations
REP2-047	<a href="#">Flintshire County Council</a> Deadline 2 Submission
REP2-048	<a href="#">Canal and River Trust</a> Deadline 2 Submission
REP2-049	<a href="#">National Highways</a> Deadline 2 Submission
REP2-050	<a href="#">Turley on behalf of Peel NRE</a> Deadline 2 Submission
REP2-051	<a href="#">J Bradburne Price &amp; Co</a> Deadline 2 Submission
REP2-052	<a href="#">Stephens Scown LLP</a> Deadline 2 Submission
REP2-053	<a href="#">Natural Resources Wales</a>

**Dyddiad Cau 3 – 23 Mai 2023 / Deadline 3 – 23 May 2023**

**Dyddiad Cau i’r Awdurdod Archwilio dderbyn:**

- \* Sylwadau ar unrhyw gyflwyniadau a gafwyd erbyn DC2.
- \* Ymatebion i’r sylwadau ar y LIRau.
- \* dDCO cyfredol mewn fersiwn lân, fersiwn sy’n dangos y newidiadau a fersiwn Word (yn ôl y gofyn).
- \* Rhestr o’r Newidiadau i’r dDCO wedi’i diweddarau (yn ôl y gofyn).
- \* Rhestr gyfredol o’r CA / TP mewn fersiwn lân a fersiwn sy’n dangos y newidiadau (yn ôl y gofyn).
- \* Llyfr Cyfeirio (BoR) cyfredol a Rhestr o’r Newidiadau i’r Llyfr Cyfeirio mewn fersiwn lân a fersiwn sy’n dangos y newidiadau (yn ôl y gofyn).
- \* Datganiad o gynnydd ar y Datganiadau Tir Cyffredin sy’n weddill a chyflwyno’r Datganiadau Tir Cyffredin a gwblhawyd ers DC2 (yn ôl y gofyn).
- \* Datganiad Cyffredinrwydd ar gyfer Datganiadau Tir Cyffredin (yn ôl y gofyn).
- \* Traciwr Dogfennau’r Cais wedi’i ddiweddarau mewn fersiwn lân a fersiwn sy’n dangos y newidiadau (yn ôl y gofyn).
- \* Traciwr NPS / Traciwr Prosbectws NPPF / Traciwr NDMP, fel sy’n berthnasol i’r Cais NSIP (yn ôl y gofyn) mewn fersiwn lân a fersiwn sy’n dangos y newidiadau.
- \* Diweddariad ar y Drwydded Forol (yn ôl y gofyn).
- \* Unrhyw wybodaeth bellach a geisiwyd gan yr Awdurdod Archwilio.

**Deadline for receipt by the ExA of:**

- Comments on any submissions received at DL2.
- Responses to comments on LIRs.
- An updated dDCO in clean, tracked and Word versions.
- An updated Schedule of Changes to the dDCO.
- An updated CA/ TP Schedule in clean and tracked versions .
- Updated BoR and Schedule of Changes to the BoR in clean and tracked versions .
- A statement of progress on SoCG that remain outstanding and submission of SoCG completed since DL2 .
- An updated Statement of Commonality of SoCG .
- An updated Application Document Tracker in clean and tracked versions
- An updated NPS tracker/ NPPF Prospectus Tracker/ NDMP Tracker, as relevant to the NSIP Application in clean and tracked versions.
- Update on the ML .
- Notification of wish to attend ASI(s).
- Any further information requested by the ExA.

REP3-001	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.1.6 Cover Letter
REP3-002	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 3 Submission - D.1.3 Application Document Tracker (Clean)
REP3-003	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.1.3 Application Document Tracker (Tracked)
REP3-004	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.2.3 Crown Land Plans
REP3-005	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.3.1 Draft Development Consent Order (Clean)
REP3-006	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.3.1 Draft Development Consent Order (Tracked)
REP3-007	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.3.2 Explanatory Memorandum (Clean)
REP3-008	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.3.2 Explanatory Memorandum (Tracked)
REP3-009	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.3.3 Schedule of Changes to the dDCO
REP3-010	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.4.1 Statement of Reasons (Clean)
REP3-011	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.4.1 Statement of Reasons (Tracked)
REP3-012	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.4.1.1 Schedule of Negotiation (Clean)
REP3-013	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.4.1.1 Schedule of Negotiation (Tracked Change)
REP3-014	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.4.3 Book of Reference (Clean)
REP3-015	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 3 Submission - D.4.3 Book of Reference (Tracked)
REP3-016	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.4.3.1 Schedule of Changes to the Book of Reference (Clean)
REP3-017	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.5.2 Other Consents and Licenses (Clean)
REP3-018	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.5.2 Other Consents and Licenses (Tracked)
REP3-019	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.6.4.17 Figure 17.6 Public Rights of Way (PRoW) Diversions
REP3-020	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.6.5.3 Outline Construction Traffic Management Plan (Clean)
REP3-021	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.6.5.3 Outline Construction Traffic Management Plan (Tracked)
REP3-022	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.6.5.12 Biodiversity Net Gain Assessment (Clean)
REP3-023	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.6.5.12 Biodiversity Net Gain Assessment (Tracked)
REP3-024	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.2 Statement of Commonality for Statements of Common Ground
REP3-025	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.2.1 Statement of Common Ground - Flintshire County Council
REP3-026	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.2.4 Statement of Common Ground - Natural Resources Wales
REP3-027	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 3 Submission - D.7.2.8 Statement of Common Ground - Peel NRE Limited
REP3-028	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.9 Outline Public Rights of Way Management Plan (Clean)
REP3-029	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.9 Outline Public Rights of Way Management Plan (Tracked)
REP3-030	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.2.11 Statement of Common Ground - Canal and River Trus
REP3-031	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.2.13 Statement of Common Ground - Essar Oil (UK) Limited
REP3-032	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.2.19 Statement of Common Ground - National Gas Transmission
REP3-033	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.21 Applicant's Comments on Submission Received at Deadline 2
REP3-034	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.23 Biodiversity Net Gain Strategy Update (Clean)
REP3-035	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.23 HyNet CO2 Biodiversity Net Gain Strategy Update (Tracked)
REP3-036	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.2.26 Statement of Common Ground - Network Rail
REP3-037	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.2.32 Statement of Common Ground - Royal Mail Group Limited
REP3-038	<a href="#">Liverpool Bay CCS Limited</a> Deadline 3 Submission - D.7.19.1 Applicant's Response to Chester West and Chester Council's Written Representation Addendum (Biodiversity)
REP3-039	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 3 Submission - D.7.27 Alltami Brook Crossing Options Appraisal
REP3-040	<a href="#">Cadent Gas Limited</a> Deadline 3 Submission
REP3-041	<a href="#">Canal and River Trust</a> Deadline 3 Submission
REP3-042	<a href="#">Cheshire West and Chester Council</a> Deadline 3 Submission - Response to the Applicant's comments on Cheshire West and Chester's Written Representation submitted at Deadline 1
REP3-043	<a href="#">Cheshire West and Chester Council</a> Deadline 3 Submission - Cover Letter
REP3-044	<a href="#">Cheshire West and Chester Council</a> Deadline 3 Submission - Response to the to the Applicant's comments to the Cheshire West and Chester Council's Local Impact Report
REP3-045	<a href="#">Environment Agency</a> Deadline 3 Submission
REP3-046	<a href="#">Flintshire County Council</a> Deadline 3 Submission - Response to the Applicant's comments to the Flintshire County Council's Final Local Impact Report
REP3-047	<a href="#">Flintshire County Council</a> Deadline 3 Submission - Response to the Applicant's comments on Flintshire County Council's Response to ExQ1
REP3-048	<a href="#">Natural Resources Wales</a> Deadline 3 Submission
REP3-049	<a href="#">Turley on behalf of Peel NRE</a> Deadline 3 Submission
REP3-050	<a href="#">Encirc Limited</a> Deadline 3 Submission - Non-IP submission accepted at the discretion of the Examining Authority
<b>Dyddiad Cau 4 - 20 Mehefin 2023 / <u>Deadline 4 - 20 June 2023</u></b>	



**Dyddiad Cau i'r Awdurdod Archwilio dderbyn:**

- \* Crynodebau ysgrifenedig o'r cyflwyniadau llafar a wnaed mewn unrhyw Wrandawiadau a gynhaliwyd yn ystod yr wythnos yn dechrau ar 5 Mehefin 2023.
- \* Unrhyw gyflwyniadau ôl-wrandawriad a geisiwyd gan yr Awdurdod Archwilio.
- \* Sylwadau ar unrhyw gyflwyniadau eraill a gafwyd erbyn DC3.
- \* Rhestr gyfredol o'r CA / TP mewn fersiwn lân a fersiwn sy'n dangos y newidiadau.
- \* Llyfr Cyfeirio (BoR) cyfredol a Rhestr o'r Newidiadau i'r Llyfr Cyfeirio mewn fersiwn lân a fersiwn yn dangos y newidiadau (yn ôl y gofyn).
- \* dDCO cyfredol mewn fersiwn lân, fersiwn sy'n dangos y newidiadau a fersiwn Word (yn ôl y gofyn).
- \* Rhestr o'r Newidiadau i'r dDCO wedi'i diweddarau (yn ôl y gofyn).
- \* Traciwr Dogfennau'r Cais wedi'i ddiweddarau mewn fersiwn lân a fersiwn sy'n dangos y newidiadau.
- \* Traciwr NPS / Traciwr Prosbectws NPPF / Traciwr NDMP, fel sy'n berthnasol i'r Cais NSIP (yn ôl y gofyn) mewn fersiwn lân a fersiwn sy'n dangos y newidiadau.
- \* Datganiad o gynnydd ar y Datganiadau Tir Cyffredin sy'n weddill a chyflwyno'r Datganiadau Tir Cyffredin a gwblhawyd ers DC3 (yn ôl y gofyn).
- \* Datganiad Cyffredinrwydd ar gyfer Datganiadau Tir Cyffredin (yn ôl y gofyn).
- \* Diweddariad ar y Drwydded Forol (yn ôl y gofyn).
- \* Unrhyw wybodaeth bellach a geisiwyd gan yr Awdurdod Archwilio.

**Deadline for receipt by the ExA of:**

- Written summaries of oral submissions made at any Hearings held during the week commencing 5 June 2023.
- Any post-hearing submissions requested by the ExA.
- Comments on any other submissions received at DL3.
- An updated CA/ TP Schedule in clean and tracked versions.
- Updated BoR and Schedule of Changes to the BoR, in clean and tracked versions (if required).
- An updated dDCO in clean, tracked and Word versions (if required).
- An updated Schedule of Changes to the dDCO (if required).
- An updated Application Document Tracker in clean and tracked versions.
- An updated NPS tracker/ NPPF Prospectus Tracker/ NDMP Tracker, as relevant to the NSIP Application (if required) in clean and tracked versions.
- A statement of progress on SoCG that remain outstanding and submission of SoCG completed since DL3 (if required).
- Statement of Commonality for SoCG (if required).
- Update on the ML (if required).
- Any further information requested by the ExA.

REP4-001	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.1.8 Deadline 4 Cover Letter
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REP4-002	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.1.3 Application Document Tracker (Clean)
REP4-003	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.1.3 Application Document Tracker (Tracked Change)
REP4-004	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.2.2 Land Plans
REP4-005	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.2.3 Crown Land Plans
REP4-006	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.2.4 Works Plans
REP4-007	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.3.1 Draft Development Consent Order (Tracked Change)
REP4-008	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.3.1 Draft Development Consent Order (Clean)
REP4-009	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.3.2 Explanatory Memorandum (Tracked Change)
REP4-010	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.3.2 Explanatory Memorandum (Clean)
REP4-011	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.3.3 Schedule of Changes to the dDCO
REP4-012	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.4.1 Statement of Reasons (Clean)
REP4-013	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.4.1 Statement of Reasons (Tracked Change)
REP4-014	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.4.1.1 Schedule of Negotiations with Land Interests (Clean)

REP4-015	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.4.1.1 Schedule of Negotiations with Land Interests (Tracked Change)
REP4-016	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.4.3 Book of Reference (Clean)
REP4-017	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.4.3 Book of Reference (Tracked Change)
REP4-018	<a href="#">Liverpool Bay CCS Limited</a> (PDF, 437 KB) Deadline 4 Submission - D.4.3.1 Schedule of Changes to the Book of Reference
REP4-019	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.5.2 Other Consents and Licences (Track Changed)
REP4-020	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.5.2 Other Consents and Licences (Clean)
REP4-021	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.5.4 Planning Statement (Track Changed)
REP4-022	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.5.4 Planning Statement (Clean)
REP4-023	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.1 Environmental Statement - Non Technical Summary English (Tracked Change)
REP4-024	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.1 Environmental Statement - Non Technical Summary - English (Clean)
REP4-025	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.1 Environmental Statement - Non Technical Summary - Welsh (Clean)
REP4-026	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.1 Environmental Statement - Non Technical Summary Welsh (Tracked Change)
REP4-027	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 4 Submission - D.6.2.1 Environmental Statement - Chapter 01 Introduction
REP4-028	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.2 Environmental Statement - Chapter 02 The Project
REP4-029	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.3 Environmental Statement - Chapter 03 Description of the DCO Proposed Development (Clean)
REP4-030	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.3 Environmental Statement - Chapter 03 Description of the DCO Proposed Development (Tracked Change)
REP4-031	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.4 Environmental Statement - Chapter 04 Consideration of Alternatives (Clean)
REP4-032	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.4 Environmental Statement - Chapter 04 Consideration of Alternatives (Tracked Change)
REP4-033	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.5 Environmental Statement - Chapter 05 EIA Methodology (Clean)
REP4-034	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.5 Environmental Statement - Chapter 05 EIA Methodology (Tracked Change)
REP4-035	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.6 Environmental Statement - Chapter 06 Air Quality (Clean)
REP4-036	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.6 Environmental Statement - Chapter 06 Air Quality (Tracked Change)
REP4-037	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.7 Environmental Statement - Chapter 07 Climate Resilience (Tracked Change)
REP4-038	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.7 Environmental Statement - Chapter 07 Climate Resilience (Clean)

REP4-039	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.8 Environmental Statement - Chapter 08 Cultural Heritage (Clean)
REP4-040	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.8 Environmental Statement - Chapter 08 Cultural Heritage (Tracked Change)
REP4-041	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.9 Environmental Statement - Chapter 09 Biodiversity (Clean)
REP4-042	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.9 Environmental Statement - Chapter 09 Biodiversity (Tracked Change)
REP4-043	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.10 Environmental Statement - Chapter 10 Greenhouse Gases (Clean)
REP4-044	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.10 Environmental Statement - Chapter 10 Greenhouse Gases (Tracked Change)
REP4-045	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.11 Environmental Statement - Chapter 11 Land and Soils (Clean)
REP4-046	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.11 Environmental Statement - Chapter 11 Land and Soils (Tracked Change)
REP4-047	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.12 Environmental Statement - Chapter 12 Landscape and Visual (Tracked Change)
REP4-048	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.12 Environmental Statement - Chapter 12 Landscape and Visual (Clean)
REP4-049	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.13 Environmental Statement - Chapter 13 Major Accidents and Disasters (Clean)
REP4-050	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.13 Environmental Statement - Chapter 13 Major Accidents and Disasters (Tracked Change)

REP4-051	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.14 Environmental Statement - Chapter 14 Materials and Waste (Tracked Change)
REP4-052	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.14 Environmental Statement - Chapter 14 Materials and Waste (Clean)
REP4-053	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.15 Environmental Statement - Chapter 15 Noise and Vibration (Clean)
REP4-054	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.15 Environmental Statement - Chapter 15 Noise and Vibration (Tracked Change)
REP4-055	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.16 Environmental Statement - Chapter 16 Population and Human Health (Clean)
REP4-056	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.16 Environmental Statement - Chapter 16 Population and Human Health (Tracked Change)
REP4-057	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.17 Environmental Statement - Chapter 17 Traffic and Transport (Clean)
REP4-058	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.17 Environmental Statement - Chapter 17 Traffic and Transport (Tracked Change)
REP4-059	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.18 Environmental Statement - Chapter 18 Water Resources and Flood Risk (Clean)
REP4-060	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.18 Environmental Statement - Chapter 18 Water Resources and Flood Risk (Tracked Change)
REP4-061	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.19 Environmental Statement - Chapter 19 Combined and Cumulative Effects (Tracked Change)
REP4-062	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.19 Environmental Statement - Chapter 19 Combined and Cumulative Effects (Clean)

REP4-063	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.20 Environmental Statement - Chapter 20 Summary of Likely Significant Effects (Clean)
REP4-064	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.2.20 Environmental Statement - Chapter 20 Summary of Likely Significant Effects (Tracked Change)
REP4-065	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.1.1 Environmental Statement - Appendix 1.1 EIA Scoping Report Part 1
REP4-066	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.1.1 Environmental Statement - Appendix 1.1 EIA Scoping Report Part 2
REP4-067	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.1.2 Environmental Statement - Appendix 1.2 EIA Scoping Opinion
REP4-068	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.1.3 Environmental Statement - Appendix 1.3 Scoping Opinion Responses
REP4-069	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.1.11.1 Excavation Records
REP4-070	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.3.1 Environmental Statement - Appendix 3.1 Table of Trenchless Crossings (Clean)
REP4-071	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.3.1 Environmental Statement - Appendix 3.1 Table of Trenchless Crossings (Tracked Change)
REP4-072	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.3.2 Environmental Statement - Appendix 3.2 Indicative Plant and Equipment (Clean)
REP4-073	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.3.2 Environmental Statement - Appendix 3.2 Indicative Plant and Equipment (Tracked Change)
REP4-074	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.4.1 Environmental Statement - Appendix 4.1 Guiding Principles Factors and Criteria for Options

REP4-075	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.5.1 Environmental Statement - Appendix 5.1 Relevant Expertise and Competency (Tracked Change)
REP4-076	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.5.1 Environmental Statement - Appendix 5.1 Relevant Expertise and Competency (Clean)
REP4-077	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.6.1 Environmental Statement - Appendix 6.1 Construction Dust Assessment (Clean)
REP4-078	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.6.1 Environmental Statement - Appendix 6.1 Construction Dust Assessment (Tracked Change)
REP4-079	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.6.2 Environmental Statement - Appendix 6.2 Impurities Venting
REP4-080	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.7.1 Environmental Statement - Appendix 7.1 Climate Resilience Preliminary Assessment
REP4-081	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.8.1 Environmental Statement - Appendix 8.1 Historic Environment Desk Based Assessment Part 1 (Clean)
REP4-082	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.8.1 Environmental Statement - Appendix 8.1 Historic Environment Desk Based Assessment Part 1 (Tracked Change)
REP4-083	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.8.1 Environmental Statement - Appendix 8.1 Historic Environment Desk Based Assessment Part 2 (Tracked Change)
REP4-084	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.8.1 Environmental Statement - Appendix 8.1 Historic Environment Desk Based Assessment Part 2 (Clean)
REP4-085	<a href="#">Liverpool Bay CCS Limited</a>



	Deadline 4 Submission - D.6.3.8.1 Environmental Statement - Appendix 8.1 Historic Environment Desk Based Assessment Part 3 (Clean)
REP4-086	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.8.1 Environmental Statement - Appendix 8.1 Historic Environment Desk Based Assessment Part 3 (Tracked Change)
REP4-087	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.8.2 Environmental Statement - Appendix 8.2 Gazetteer
REP4-088	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.8.3 Environmental Statement - Appendix 8.3 Aerial Photograph and LiDAR Review
REP4-089	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.8.4 Environmental Statement - Appendix 8.4 Geophysical Survey Report
REP4-090	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.8.5 Environmental Statement - Appendix 8.5 Geoarchaeological Deposit Model Report
REP4-091	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.1 Environmental Statement - Appendix 9.1 Habitats and Designated Sites (Clean)
REP4-092	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.1 Environmental Statement - Appendix 9.1 Habitats and Designated Sites (Tracked Change)
REP4-093	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.2 Environmental Statement - Appendix 9.2 Great Crested Newt Survey Report (Clean)
REP4-094	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.2 Environmental Statement - Appendix 9.2 Great Crested Newt Survey Report (Tracked Change)
REP4-095	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.3 Environmental Statement - Appendix 9.3 Bat Activity Survey (Tracked Change)
REP4-096	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 4 Submission - D.6.3.9.3 Environmental Statement - Appendix 9.3 Bat Activity Survey (Clean)
REP4-097	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment Part 1 (Clean)
REP4-098	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment Part 1 (Tracked Change)
REP4-099	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment Part 2 (Clean)
REP4-100	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment Part 2 (Tracked Change)
REP4-101	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment Part 3 (Clean)
REP4-102	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment Part 3 (Tracked Change)
REP4-103	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.5 Environmental Statement - Appendix 9.5 Badger Survey Report (Confidential) (Tracked Change)
REP4-104	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.5 Environmental Statement - Appendix 9.5 Badger Survey Report (Confidential) (Clean)
REP4-105	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.6 Environmental Statement - Appendix 9.6 Riparian Mammal Survey Report Part 1 (Tracked Change)
REP4-106	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.6 Environmental Statement - Appendix 9.6 Riparian Mammal Survey Report Part 1 (Clean)
REP4-107	<a href="#">Liverpool Bay CCS Limited</a>

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REP4-108	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.6 Environmental Statement - Appendix 9.6 Riparian Mammal Survey Report Part 2 (Tracked Change)
REP4-109	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.7 Environmental Statement - Appendix 9.7 Barn Owl Survey Report (Confidential) (Tracked Change)
REP4-110	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.7 Environmental Statement - Appendix 9.7 Barn Owl Survey Report (Confidential) (Clean)
REP4-111	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.8 Environmental Statement - Appendix 9.8 Bird Report (Tracked Change)
REP4-112	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.8 Environmental Statement - Appendix 9.8 Bird Report (Clean)
REP4-113	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.9 Environmental Statement - Appendix 9.9 Aquatic Ecology (Watercourses) Survey Report (Tracked Change)
REP4-114	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.9 Environmental Statement - Appendix 9.9 Aquatic Ecology (Watercourses) Survey Report (Clean)
REP4-115	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.10 Environmental Statement - Appendix 9.10 Aquatic Ecology (Ponds) Survey Report (Clean)
REP4-116	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.10 Environmental Statement - Appendix 9.10 Aquatic Ecology (Ponds) Survey Report (Tracked Change)
REP4-117	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.11 Environmental Statement - Appendix 9-11 Arboricultural Impact Assessment (Tracked Change)

REP4-118	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.9.11 Environmental Statement - Appendix 9-11 Arboricultural Impact Assessment (Clean)
REP4-119	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.1 Appendix 11.1 Phase 1 Preliminary Assessment (Baseline Report)
REP4-120	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Part 1
REP4-121	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Part 2
REP4-122	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Part 3
REP4-123	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Part 4
REP4-124	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Part 5
REP4-125	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Part 6
REP4-126	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Part 7
REP4-127	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Part 8
REP4-128	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Part 9
REP4-129	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Part 10

REP4-130	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.3 Environmental Statement - Appendix 11.3 Mineral Resource Assessment Part 1
REP4-131	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.3 Environmental Statement - Appendix 11.3 Mineral Resource Assessment Part 2
REP4-132	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.4 Environmental Statement - Appendix 11.4 Agricultural Land Classification & Soil Resources (NCDP)
REP4-133	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.5 Environmental Statement - Appendix 11.5 Agricultural Land Classification & Soil Resources (BVS)
REP4-134	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.6 Environmental Statement - Appendix 11.6 Ground Investigation Report Part 1
REP4-135	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.6 Environmental Statement - Appendix 11.6 Ground Investigation Report Part 2
REP4-136	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.11.6 Environmental Statement - Appendix 11.6 Ground Investigation Report Part 3
REP4-137	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.12.1 Environmental Statement - Appendix 12.1 Baseline Information (Clean)
REP4-138	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.12.1 Environmental Statement - Appendix 12.1 Baseline Information (Tracked Change)
REP4-139	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.12.2 Environmental Statement - Appendix 12.2 LVIA Methodology
REP4-140	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.12.3 Environmental Statement - Appendix 12.3 Landscape Analysis
REP4-141	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 4 Submission - D.6.3.12.4 Environmental Statement - Appendix 12.4 Visual Analysis (Clean)
REP4-142	<a href="#">Liverpool Bay CCS Limited</a> (PDF, 965 KB) Deadline 4 Submission - D.6.3.12.4 Environmental Statement - Appendix 12.4 Visual Analysis (Tracked Change)
REP4-143	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.13.1 Environmental Statement - Appendix 13.1 MAD Long List (Clean)
REP4-144	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.13.1 Environmental Statement - Appendix 13.1 MAD Long List (Tracked Change)
REP4-145	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.13.2 Environmental Statement - Appendix 13.2 ES Risk Record (Clean)
REP4-146	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.13.2 Environmental Statement - Appendix 13.2 ES Risk Record (Tracked Change)
REP4-147	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.15.1 Environmental Statement - Appendix 15.1 Baseline Noise Data
REP4-148	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.15.2 Environmental Statement - Appendix 15.2 Assumptions for Construction Noise and Vibration
REP4-149	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.15.3 Environmental Statement - Appendix 15.3 Noise and Vibration Assessment Results (Tracked Change)
REP4-150	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.15.3 Environmental Statement - Appendix 15.3 Noise and Vibration Assessment Results (Clean)
REP4-151	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.16.1 Environmental Statement - Appendix 16.1 Land Use and Assets (Clean)
REP4-152	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.16.1 Environmental Statement - Appendix 16.1 Land Use and Assets (Tracked Change)
REP4-153	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 4 Submission - D.6.3.16.2 Environmental Statement - Appendix 16.2 Public Rights of Way (Clean)
REP4-154	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.16.2 Environmental Statement - Appendix 16.2 Public Rights of Way (Tracked Change)
REP4-155	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.17.1 Environmental Statement - Appendix 17.1 Surveyed Traffic Data
REP4-156	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.17.2 Environmental Statement - Appendix 17.2 Methodology
REP4-157	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.17.3 Environmental Statement - Appendix 17.3 Personal Injury Accident Summary
REP4-158	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.17.4 Environmental Statement - Appendix 17.4 Baseline Traffic Data
REP4-159	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.17.5 Environmental Statement - Appendix 17.5 Public Rights of Way by Section
REP4-160	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.17.6 Environmental Statement - Appendix 17.6 Section by Section Descriptions
REP4-161	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.17.7 Environmental Statement - Appendix 17.7 Construction Traffic Flows
REP4-162	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.17.8 Environmental Statement - Appendix 17.8 Construction Traffic Profiles
REP4-163	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.17.9 Environmental Statement - Appendix 17.9 Future Year Traffic Flows
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REP4-168	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.17.13 Environmental Statement - Appendix 17.13 Transport Assessment (Tracked Change)
REP4-169	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.17.14 Environmental Statement - Appendix 17.14 Interim Worker Travel Plan
REP4-170	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.18.1 Environmental Statement - Appendix 18.1 Baseline (Clean)
REP4-171	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.18.1 Environmental Statement - Appendix 18.1 Baseline (Tracked Change)
REP4-172	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.18.2 Environmental Statement - Appendix 18.2 Summary of Effect (Clean)
REP4-173	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.18.2 Environmental Statement - Appendix 18.2 Summary of Effect (Tracked Change)
REP4-174	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.18.3 Environmental Statement - Appendix 18.3 Water Framework Directive Assessment (Clean)
REP4-175	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.18.3 Environmental Statement - Appendix 18.3 Water Framework Directive Assessment (Tracked Change)
REP4-176	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.18.4 Environmental Statement - Appendix 18.4 Flood Risk Assessment Part 1 (Tracked Change)
REP4-177	<a href="#">Liverpool Bay CCS Limited</a>



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REP4-178	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.18.4 Environmental Statement - Appendix 18.4 Flood Risk Assessment Part 2 (Clean)
REP4-179	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.18.4 Environmental Statement - Appendix 18.4 Flood Risk Assessment Part 2 (Tracked Change)
REP4-180	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.18.5 Environmental Statement - Appendix 18.5 Flood Consequences Assessment (Clean)
REP4-181	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.18.5 Environmental Statement - Appendix 18.5 Flood Consequences Assessment (Tracked Change)
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REP4-184	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.19.1 Environmental Statement - Appendix 19.1 Inter-Project Effects Assessment (Clean)
REP4-185	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.19.2 Environmental Statement - Appendix 19.2 Intra-Project Effects Assessment (Clean)
REP4-186	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.3.19.2 Environmental Statement - Appendix 19.2 Intra-Project Effects Assessment (Tracked Change)
REP4-187	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.3.1 Environmental Statement - Figure 3.1 DCO Proposed Development Boundaries
REP4-188	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 4 Submission - D.6.4.3.2 Environmental Statement - Figure 3.2 DCO Proposed Development
REP4-189	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.3.3 Environmental Statement - Figure 3.3 Environmental Features
REP4-190	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.3.4 Environmental Statement - Figure 3.4 Landscape and Ecological Mitigation Plan
REP4-191	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.0.0 Figure Cover Sheet
REP4-192	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.4.1 Environmental Statement - Figure 4.1 Strategic Route Corridors
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REP4-195	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.4.4 Environmental Statement - Figure 4.4 Shropshire UC Crossing Options
REP4-196	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.4.5 Environmental Statement - Figure 4.5 Mollington Railway Crossing Options
REP4-197	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.4.6 Environmental Statement - Figure 4.6 Alltami Brook Options
REP4-198	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.4.7 Environmental Statement - Figure 4.7 Ince AGI Options
REP4-199	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.4.8 Environmental Statement - Figure 4.8 Stanlow AGI Options
REP4-200	<a href="#">Liverpool Bay CCS Limited</a>

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REP4-201	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.4.10 Environmental Statement - Figure 4.10 Flint AGI Options
REP4-202	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.4.11 Environmental Statement - Figure 4.11 Rock Bank BVS
REP4-203	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.4.12 Environmental Statement - Figure 4.12 Mollington BVS
REP4-204	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.4.14 Environmental Statement - Figure 4.14 Cornist Lane BVS
REP4-205	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.4.13 Environmental Statement - Figure 4.13 Aston Hill BVS
REP4-206	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.4.15 Environmental Statement - Figure 4.15 Pentre Halkyn BVS
REP4-207	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.4.16 Environmental Statement - Figure 4.16 Babell BVS
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REP4-218	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.4.12.3 Environmental Statement - Figure 12.3 Viewpoint Plan
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REP4-235	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.5.1 Register of Environmental Actions and Commitments (REAC) (Clean)
REP4-236	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 4 Submission - D.6.5.1 Register of Environmental Actions and Commitments (REAC) (Tracked Change)
REP4-237	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.5.4 Outline Construction Environmental Management Plan (OCEMP) (Clean)
REP4-238	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.5.4 Outline Construction Environmental Management Plan (OCEMP) (Tracked Change)
REP4-239	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.5.4.1 Outline Soil Management Plan (Tracked Change)
REP4-240	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.5.4.1 Outline Soil Management Plan (Clean)
REP4-241	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.5.4.4 Outline Peat Management Plan (Tracked Change)
REP4-242	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.5.4.4 Outline Peat Management Plan (Clean)
REP4-243	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.5.6 Habitats Regulations Assessment (Clean)
REP4-244	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.6.5.6 Habitats Regulations Assessment (Tracked Change)
REP4-245	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.2 Statement of Commonality for Statements of Common Ground
REP4-246	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.2.3 Statement of Common Ground - Natural England
REP4-247	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.2.7 Statement of Common Ground - Cadw
REP4-248	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 4 Submission - D.7.2.8 Statement of Common Ground - Peel NRE Limited
REP4-249	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.9 Outline Public Rights of Way Management Plan
REP4-250	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.2.10 Statement of Common Ground - Welsh Government
REP4-251	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.2.12 Statement of Common Ground - Cadent Gas
REP4-252	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.2.16 Statement of Common Ground - National Grid Electricity Transmission
REP4-253	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.2.18 Statement of Common Ground - Exolum Pipeline System Limited
REP4-254	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.2.19 Statement of Common Ground - National Gas Transmission
REP4-255	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.2.29 Statement of Common Ground - CF Fertilisers UK Limited
REP4-256	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.2.34 Statement of Common Ground - The Woodland Trust
REP4-257	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.9 Outline Public Rights of Way Management Plan (Clean)
REP4-258	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.15 Outline Operational and Maintenance Environmental Management Plan (OMEMP) (Clean)
REP4-259	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.15 Outline Operational and Maintenance Environmental Management Plan (OMEMP) (Tracked Change)
REP4-260	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 4 Submission - D.7.25 Outline Odour Management Plan (Clean)
REP4-261	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.25 Outline Odour Management Plan (Tracked Change)
REP4-262	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.2.27 Statement of Common Ground - 2 Sisters Food Group
REP4-263	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.28 Applicant's Comments on Submissions Received at Deadline 3
REP4-264	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.30 Written summaries of oral submissions made at any Hearings held week commencing 5 June 2023
REP4-265	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.31 Applicant's Responses to Action Points from Hearings held week commencing 5 June 2023
REP4-266	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.32 Outline Materials Management Plan
REP4-267	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.33 Archaeological Evaluation Report
REP4-268	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - Groundsure Location Intelligence
REP4-269	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - Figure 11.1.3: Potential Contaminant Sources
REP4-270	<a href="#">Liverpool Bay CCS Limited</a> Deadline 4 Submission - D.7.34 Notification of Intention to Submit a Change Request (3)
REP4-271	<a href="#">Canal and River Trust</a> Deadline 4 Submission - Cover Letter
REP4-272	<a href="#">Canal and River Trust</a>



	Deadline 4 Submission - Appendix A - Written Summary of the Canal and River Trust's (the Trust) Oral Submissions made at the Compulsory Acquisition Hearing 1 (CAH1) held on 7 June 2023
REP4-273	<a href="#">Canal and River Trust</a> Deadline 4 Submission - Appendix B - Response to Action Points from the Hearings held week of 5 June 2023
REP4-274	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 4 Submission - Cover Letter
REP4-275	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 4 Submission - Written summaries of oral submissions made at any Hearings held during the week commencing 5 June 2023
REP4-276	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 4 Submission - Response to Action Points from the Hearings held week of 5 June 2023
REP4-277	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 4 Submission - Comments on the Councils WR Addendum at DL1A
REP4-278	<a href="#">Cheshire West and Chester Council</a> Deadline 4 Submission - Local Plan and detailed policies
REP4-279	<a href="#">Environment Agency</a> Deadline 4 Submission
REP4-280	<a href="#">Eversheds Sutherland LLP on behalf of Encirc Limited</a> Deadline 4 Submission
REP4-281	<b>REFERENCE NOT IN USE</b>
REP4-282	<a href="#">Fisher German on behalf of E and J Williams</a> Deadline 4 Submission
REP4-283	<a href="#">Fisher German on behalf of J Wrench and Son</a> Deadline 4 Submission
REP4-284	<a href="#">Fisher German on behalf of Messrs A White Events Limited</a> Deadline 4 Submission
REP4-285	<a href="#">Flintshire County Council</a> Deadline 4 Submission
REP4-286	<a href="#">Flintshire County Council</a>

	Deadline 4 Submission - Written summaries of oral submissions made at any Hearings held during the week commencing 5 June 2023 (ISH1)
REP4-287	<a href="#">Flintshire County Council</a> Deadline 4 Submission - Late Submission - Accepted at the discretion of the Examining Authority -Written summaries of oral submissions made at any Hearings held during the week commencing 5 June 2023 CAH)
REP4-288	<a href="#">Flintshire County Council</a> Deadline 4 Submission - Appendix 1
REP4-289	<a href="#">Flintshire County Council</a> Deadline 4 Submission - Written summaries of oral submissions made at any Hearings held during the week commencing 5 June 2023 (ISH2)
REP4-290	<a href="#">National Highways</a> Deadline 4 Submission - Post hearing submissions of National Highways Limited in respect of ISH2 and CAH1
REP4-291	<a href="#">Natural Resources Wales</a> Deadline 4 Submission
REP4-292	<a href="#">Stephens Scown on behalf of Stephen Oultram and Catherine Oultram</a> Deadline 4 Submission

**Dyddiad Cau 5 – 04 Gorffennaf 2023 / Deadline 5 – 04 July 2023**

**Dyddiad Cau i'r Awdurdod Archwilio dderbyn:**

- \* Ymatebion i ExQ2 (yn ôl y gofyn).
- \* Sylwadau ar unrhyw gyflwyniadau eraill a gafwyd erbyn DC4, gan gynnwys unrhyw dDCO cyfredol.
- \* Rhestr gyfredol o'r CA / TP mewn fersiwn lân a fersiwn sy'n dangos y newidiadau.
- \* Llyfr Cyfeirio (BoR) cyfredol a Rhestr o'r Newidiadau i'r Llyfr Cyfeirio mewn fersiwn lân a fersiwn sy'n dangos y newidiadau (yn ôl y gofyn).
- \* dDCO cyfredol mewn fersiwn lân, fersiwn sy'n dangos y newidiadau a fersiwn Word (yn ôl y gofyn).
- \* Rhestr o'r Newidiadau i'r dDCO wedi'i diweddarau (yn ôl y gofyn).
- \* Canllaw cyfredol i'r Cais mewn fersiwn lân a fersiwn sy'n dangos y newidiadau (yn ôl y gofyn).
- \* Traciwr NPS / Traciwr Prosbectws NPPF / Traciwr NDMP cyfredol, fel sy'n berthnasol i'r Cais NSIP (yn ôl y gofyn) mewn fersiwn lân a fersiwn sy'n dangos y newidiadau.
- \* Datganiad o gynnydd ar y Datganiadau Tir Cyffredin sy'n weddill a chyflwyno'r Datganiadau Tir Cyffredin a gwblhawyd ers DC4 (yn ôl y gofyn).

- \* Datganiad Cyffredinrwydd ar gyfer Datganiadau Tir Cyffredin (yn ôl y gofyn).
- \* Diweddariad ar y Drwydded Forol (yn ôl y gofyn).
- \* Unrhyw wybodaeth bellach a geisiwyd gan yr Awdurdod Archwilio.

**Deadline for receipt by the ExA of:**

- Responses to ExQ2 (if required).
- Comments on any submissions received at DL4, including any updated dDCO.
- An updated CA/ TP Schedule in clean and tracked versions
- Updated BoR and Schedule of Changes to the BoR, in clean and tracked versions
- An updated dDCO in clean, tracked and Word versions
- An updated Schedule of Changes to the dDCO
- An updated Guide to the Application in clean and tracked versions
- An updated NPS tracker/ NPPF Prospectus Tracker/ NDMP Tracker, as relevant to the NSIP Application (if required) in clean and tracked versions.
- A statement of progress on SoCG that remain outstanding and submission of SoCG completed since DL4
- Statement of Commonality for SoCG
- Update on the ML
- Any further information requested by the ExA.

REP5-001	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.1.9 Cover Letter
REP5-002	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.1.2 Application Guide (Clean
REP5-003	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.1.2 Application Guide (Tracked Change)
REP5-004	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.1.3 Application Document Tracker (Clean)
REP5-005	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.1.3 Application Document Tracker (Tracked Change)
REP5-006	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.4.1.1 Schedule of Negotiations with Land Interests (Clean)
REP5-007	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.4.1.1 Schedule of Negotiations with Land Interests (Tracked Change)

REP5-008	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.2 Statement of Commonality for Statements of Common Ground
REP5-009	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.2.9 Statement of Common Ground - National Highways
REP5-010	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.2.15 Statement of Common Ground - British Pipeline Agency
REP5-011	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.2.23 Statement of Common Ground - Wales and West Utilities
REP5-012	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.23 Biodiversity Net Gain Strategy Update (Clean)
REP5-013	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.23 Biodiversity Net Gain Strategy Update (Tracked Change)
REP5-014	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.36 Hydrogeological Impact Appraisal of Open Cut Crossing - Alltami Brook
REP5-015	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.37 Applicant's Comments on Submissions Received at Deadline 4
REP5-016	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.38 Without Prejudice Water Framework Directive Derogation Case for Alltami Brook Crossing
REP5-017	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.39 Outline Noise and Vibration Management Plan
REP5-018	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.40 Outline Waste Management Plan
REP5-019	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.41 Outline Groundwater Management and Monitoring Plan

REP5-020	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.42 Outline Biosecurity Management Plan
REP5-021	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.43 Outline Surface Water Management and Monitoring Plan
REP5-022	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.44 Outline Dewatering Management Plan
REP5-023	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.45 Outline Stakeholder Communications Management Plan
REP5-024	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.46 Change Request 1 Consultation Report
REP5-025	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.48 Responses to Examining Authority's Second Written Questions (ExQ2)
REP5-026	<a href="#">Liverpool Bay CCS Limited</a> Deadline 5 Submission - D.7.49 Applicants Response to Action Point ISH1-AP3
REP5-027	<a href="#">Canal and River Trust</a> Deadline 5 Submission - Cover Letter
REP5-028	<a href="#">Canal and River Trust</a> Deadline 5 Submission - Appendix A - Response to the Examining Authority's Second Written Questions
REP5-029	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 5 Submission - Cover Letter
REP5-030	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 5 Submission - Response to the Examining Authority's Second Written Questions
REP5-031	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 5 Submission - Response to Table 2-6 of the Applicant's Comments on Submissions Received at Deadline 3 [REP4-263]
REP5-032	<a href="#">Cheshire West and Chester Borough Council</a>

	Deadline 5 Submission - Enforcement Policy - 16 July 2014
REP5-033	<a href="#">Environment Agency</a> Deadline 5 Submission
REP5-034	<a href="#">Eversheds Sutherland LLP on behalf of Encirc Limited</a> Deadline 5 Submission
REP5-035	<a href="#">Flintshire County Council</a> Deadline 5 Submission - Response to the Examining Authority's Second Written Questions
REP5-036	<a href="#">Flintshire County Council</a> Deadline 5 Submission - The Forestry Commission's Managing England's woodlands in a climate emergency referred to in Q2.5.2 of ExQ2
REP5-037	<a href="#">Flintshire County Council</a> Deadline 5 Submission - Awel y Môr, Offshore Wind DCO REP8-049 'NRW Statement of Common Ground' as referred to in Q2.4.6
REP5-038	<a href="#">Flintshire County Council</a> Deadline 5 Submission - Corporate Complaints Policy referred to in Q2.3.2 of ExQ2
REP5-039	<a href="#">Flintshire County Council</a> Deadline 5 Submission - Response to Table 2-2 and 2-3 (Applicant's comments at DL4)
REP5-040	<a href="#">Flintshire County Council</a> Deadline 5 Submission - Urban Tree and Woodland Plan 2018-2033 referred to in Q2.4.7 of ExQ2
REP5-041	<a href="#">Flintshire County Council</a> Deadline 5 Submission - Natural England's Guidance on dealing with the changing distribution of tree species referred to in Q2.5.2 of ExQ2
REP5-042	<a href="#">Flintshire County Council</a> Deadline 5 Submission - Awel y Môr, Offshore Wind DCO REP8-016 'Schedule of Mitigation and Monitoring' as referred to in Q2.4.6
REP5-043	<a href="#">Natural England</a> Deadline 5 Submission - Response to the Examining Authority's Second Written Questions

REP5-044	<a href="#">Natural Resources Wales</a> Deadline 5 Submission - Response to the Examining Authority's Second Written Questions
REP5-045	<a href="#">Rostons Limited</a> Deadline 5 Submission - Response to the Examining Authority's Second Written Questions
REP5-046	<a href="#">Turley on behalf of Peel NRE</a> Deadline 5 Submission - Protective Provisions
REP5-047	<a href="#">Turley on behalf of Peel NRE</a> Deadline 5 Submission - Response to the Examining Authority's Second Written Questions
REP5-048	<a href="#">Turley on behalf of Peel NRE</a> Deadline 5 Submission - Written Response Statement
REP5-049	<a href="#">United Utilities Water Limited</a> Deadline 5 Submission - Response to the Examining Authority's Second Written Questions
REP5-050	<a href="#">National Highways</a> Deadline 5 Submission - Late Submission - Accepted at the discretion of the Examining Authority
REP5-051	<a href="#">National Highways</a> Deadline 5 Submission - Late Submission - Accepted at the discretion of the Examining Authority - Regulation of Street Works in Strategic Road Network

**Dyddiad Cau 6 – 18 Go / Deadline 6 – 18 July 2023**

**Dyddiad Cau i'r Awdurdod Archwilio dderbyn:**

\* Sylwadau ar unrhyw gyflwyniadau eraill a gafwyd erbyn DC5.

\* Sylwadau ar ymatebion i ExQ2 (yn ôl y gofyn).

\* Rhestr gyfredol o'r CA / TP mewn fersiwn lân a fersiwn sy'n dangos y newidiadau (yn ôl y gofyn).

\* Llyfr Cyfeirio (BoR) cyfredol a Rhestr o'r Newidiadau i'r Llyfr Cyfeirio mewn fersiwn lân a fersiwn sy'n dangos y newidiadau (yn ôl y gofyn).

\* dDCO cyfredol mewn fersiwn lân, fersiwn sy'n dangos y newidiadau a fersiwn Word (yn ôl y gofyn).

- \* Rhestr o'r Newidiadau i'r dDCO wedi'i diweddaru (yn ôl y gofyn).
- \* Traciwr Dogfennau'r Cais wedi'i ddiweddaru mewn fersiwn lân a fersiwn sy'n dangos y newidiadau (yn ôl y gofyn).
- \* Traciwr NPS / Traciwr Prosbectws NPPF / Traciwr NDMP cyfredol, fel sy'n berthnasol i'r Cais NSIP (yn ôl y gofyn) mewn fersiwn lân a fersiwn sy'n dangos y newidiadau.
- \* Datganiad o gynnydd ar y Datganiadau Tir Cyffredin sy'n weddill a chyflwyno'r Datganiadau Tir Cyffredin a gwblhawyd ers DC5 (yn ôl y gofyn).
- \* Datganiad Cyffredinrwydd ar gyfer Datganiadau Tir Cyffredin (yn ôl y gofyn).
- \* Diweddariad ar y Drwydded Forol (yn ôl y gofyn).
- \* Unrhyw wybodaeth bellach a geisiwyd gan yr Awdurdod Archwilio.

**Deadline for receipt by the ExA of:**

- Comments on any other submissions received at DL5.
- Comments on responses to ExQ2 (if required).
- An updated CA/ TP Schedule in clean and tracked versions (if required).
- Updated BoR and Schedule of Changes to the BoR in clean and tracked versions (if required).
- An updated dDCO in clean, tracked and Word versions (if required).
- An updated Schedule of Changes to the dDCO (if required).
- An updated Application Document Tracker documents in clean and tracked versions (if required).
- An updated NPS tracker/ NPPF Prospectus Tracker/ NDMP Tracker, as relevant to the NSIP Application (if required) in clean and tracked versions.
- A statement of progress on SoCG that remain outstanding and submission of SoCG completed since DL5 (if required).
- Statement of Commonality for SoCG (if required).
- Update on the ML (if required).
- Any further information requested by the ExA.

REP6-001	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.1.11 Cover Letter
REP6-002	<a href="#">Liverpool Bay CCS Limited</a>



	Deadline 6 Submission - D.1.3 Application Document Tracker (Clean)
REP6-003	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.1.3 Application Document Tracker (Tracked Change)
REP6-004	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.4.1.1 Schedule of Negotiations with Land Interests (Clean)
REP6-005	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.4.1.1 Schedule of Negotiation with Land Interests (Tracked Change)
REP6-006	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.6.5.1 Register of Environmental Actions and Commitments (REAC) (Clean)
REP6-007	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.6.5.1 Register of Environmental Actions and Commitments (REAC) (Tracked Change)
REP6-008	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.6.5.4 Outline Construction Environmental Management Plan (OCEMP) (Clean)
REP6-009	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.6.5.4 Outline Construction Environmental Management Plan (OCEMP) (Tracked Change)
REP6-010	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2 Statement of Commonality for Statements of Common Ground
REP6-011	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.1 Statement of Common Ground - Flintshire County Council
REP6-012	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.10 Statement of Common Ground - Welsh Government
REP6-013	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.11 Statement of Common Ground - Canal and River Trust
REP6-014	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 6 Submission - D.7.2.12 Statement of Common Ground - Cadent Gas
REP6-015	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.13 Statement of Common Ground - Essar Oil (UK) Limited
REP6-016	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.14 Statement of Common Ground - Dwr Cymru Welsh Water
REP6-017	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.16 Statement of Common Ground - National Grid Electricity Transmission
REP6-018	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.19 Statement of Common Ground - National Gas Transmission
REP6-019	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.2 Statement of Common Ground - Cheshire West and Chester Council
REP6-020	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.26 Statement of Common Ground - Network Rail
REP6-021	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.27 Statement of Common Ground - 2 Sisters Food Group
REP6-022	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.28 Statement of Common Ground - Vertex Hydrogen Limited
REP6-023	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.3 Statement of Common Ground - Natural England
REP6-024	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.32 Statement of Common Ground - Royal Mail Group Limited
REP6-025	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.34 Statement of Common Ground - The Woodland Trust
REP6-026	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 6 Submission - D.7.2.36 Statement of Common Ground - Encirc Limited
REP6-027	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.37 Statement of Common Ground - HyNet North West Hydrogen Pipeline
REP6-028	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.4 Statement of Common Ground - Natural Resources Wales
REP6-029	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.6 Statement of Common Ground - Historic England
REP6-030	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.7 Statement of Common Ground - Cadw
REP6-031	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.8 Statement of Common Ground - Peel NRE Limited
REP6-032	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.2.9 Statement of Common Ground with National Highways
REP6-033	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.23 Biodiversity Net Gain Strategy Update (Clean)
REP6-034	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.23 Biodiversity Net Gain Strategy Update (Tracked Change)
REP6-035	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.50 Applicant's Comments on Submissions Received at Deadline 5
REP6-036	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.51 Applicant's Comments on Responses to ExA's Second Written Questions
REP6-037	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6 Submission - D.7.52 Ewloe Routing and Mitigation Position Paper
REP6-038	<a href="#">Canal and River Trust</a>

	Deadline 6 Submission
REP6-039	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 6 Submission
REP6-040	<a href="#">Cheshire West and Chester Council</a> Deadline 6 Submission
REP6-041	<a href="#">Environment Agency</a> Deadline 6 Submission
REP6-042	<a href="#">Flintshire County Council</a> Deadline 6 Submission - Comments on Table 2.14 of [REP5-015]
REP6-043	<a href="#">Flintshire County Council</a> Deadline 6 Submission - Comments on Table 2.15 of [REP5-015]
REP6-044	<a href="#">Flintshire County Council</a> Deadline 6 Submission - Comments on Table 2.17 of [REP5-015]
REP6-045	<a href="#">Flintshire County Council</a> Deadline 6 Submission - Comments on Table 2.18 of [REP5-015]
REP6-046	<a href="#">National Highways</a> Deadline 6 Submission - Cover Letter
REP6-047	<a href="#">National Highways</a> Deadline 6 Submission - Appendix 1 - Comments on Applicant's comments on Protective Provisions
REP6-048	<a href="#">National Highways</a> Deadline 6 Submission - Appendix 2 - National Highways Form of Protective Provisions
REP6-049	<a href="#">Natural Resources Wales</a> Deadline 6 Submission
REP6-050	<a href="#">Turley on behalf of Peel NRE</a> Deadline 6 Submission
REP6-051	<a href="#">Stephens Scown LLP on behalf of Stephen Oultram and Catherine Oultram</a> Deadline 6 Submission

REP6-052	<a href="#">Stephens Scown LLP on behalf of Stephen Oultram and Catherine Oultram</a> Deadline 6 Submission - Cost Application
<p><b>Dyddiad Cau 6A (DC6A) – 08 Awst 2023 / Deadline 6A (DL6A) – 08 August 2023</b></p> <p>Dyddiad cau i'r Awdurdod Archwilio dderbyn y canlynol:</p> <ul style="list-style-type: none"> <li>* Sylwadau ar Sylwadau Perthnasol (RR) y pryder hwnnw ynghylch darpariaeth arfaethedig yr ymgeisydd ar gyfer caffael tir ychwanegol yn orfodol.</li> <li>* Sylwadau Ysgrifenedig (WR) (gan gynnwys crynodebau o bob WR sy'n fwy na 1500 o eiriau) ynghylch y darpariaethau arfaethedig gan yr Ymgeisydd, AP Ychwanegol; IPau ychwanegol; neu IPau.</li> <li>* Hysbysiad o ddymuniad i siarad mewn Gwrandawriad Llawr Agored (OFH).</li> <li>* Hysbysiad gan unrhyw Person Ychwanegol yr Effeithiwyd arno o ddymuniad i siarad yn y Gwrandawriad Caffael Gorfodol.</li> <li>* Hysbysiad gan unrhyw Bartion Statudol, sy'n cael eu heffeithio o ganlyniad i ddarpariaeth arfaethedig yr Ymgeisydd ar gyfer caffael tir ychwanegol yn orfodol, nad ydynt wedi cyflwyno RR o'u dymuniad i gael eu hystyried fel IP.</li> </ul> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>- Comments on Relevant Representations (RR) received that concern the Applicant's proposed provision for the compulsory acquisition of additional land.</li> <li>- Written representations (WRs) (including summaries of all WRs exceeding 1500 words) about the Proposed Provisions from the applicant, additional affected person(s); additional interested party/ parties; or interested party/ parties.</li> <li>- Notification of wish to speak at an Open Floor Hearing.</li> <li>- Notification from any Additional Affected Person of wish to speak at a Compulsory Acquisition Hearing.</li> <li>- Notification by any Statutory Parties, whois/ are affected as a result of the Applicant's proposed provision for the compulsory acquisition of additional land, who have not submitted a RR of their wish to be considered as an IP.</li> </ul>	
REP6A-001	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.7.1.12 Cover Letter
REP6A-002	<a href="#">Liverpool Bay CCS Limited</a> (PDF, 2 MB) Deadline 6A Submission - D.1.3 Application Document Tracker (Clean)
REP6A-003	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.1.3 Application Document Tracker (Tracked Change)

REP6A-004	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.4.1.1 Schedule of Negotiation (Clean)
REP6A-005	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.4.1.1 Schedule of Negotiation (Tracked Change)
REP6A-006	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.7.2 Statement of Commonality for Statements of Common Ground
REP6A-007	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.7.2.1 Statement of Common Ground - Flintshire County Council
REP6A-008	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.7.2.2 Statement of Common Ground - Cheshire West and Chester Council
REP6A-009	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.7.2.6 Statement of Common Ground - Historic England
REP6A-010	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.7.2.7 Statement of Common Ground - Cadw
REP6A-011	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.7.2.20 Statement of Common Ground - Scottish Power Energy Networks (SPEN)
REP6A-012	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.7.2.4 Statement of Common Ground - Natural Resources Wales
REP6A-013	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.7.2.18 Statement of Common Ground - Exolum Pipeline Systems
REP6A-014	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.7.2.23 Statement of Common Ground - Wales and West Utilities
REP6A-015	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.7.2.34 Statement of Common Ground - The Woodland Trust
REP6A-016	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.7.43 Outline Surface Water Management and Monitoring Plan (Clean)
REP6A-017	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.7.43 Outline Surface Water Management and Monitoring Plan (Tracked Change)
REP6A-018	<a href="#">Liverpool Bay CCS Limited</a> Deadline 6A Submission - D.7.57 Applicant's Comments on Submissions Received at Deadline 6 from Natural Resources Wales [REP6-049]
REP6A-019	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 6A Submission - Late Submission - Accepted at the discretion of the Examining Authority

REP6A-020	<a href="#">Cllr Simon Eardley</a> Deadline 6A Submission
REP6A-021	<a href="#">Environment Agency</a> Deadline 6A Submission
REP6A-022	<a href="#">Eversheds Sutherland LLP on behalf of Encirc Limited</a> Deadline 6A Submission
REP6A-023	<a href="#">National Highways</a> Deadline 6A Submission - Late Submission - Accepted at the discretion of the Examining Authority - Non-attendance at CAH2
REP6A-024	<a href="#">Natural Resources Wales</a> Deadline 6A Submission
REP6A-025	<a href="#">Natural England</a> Deadline 6A Submission - Late Submission - Accepted at the discretion of the Examining Authority

**Dyddiad Cau 7 (DC7) - 05 Medi 2023 / Deadline 7 (DL7) - 05 September 2023**

Dyddiad cau i'r Awdurdod Archwilio dderbyn y canlynol:

- \* Sylwadau ar unrhyw gyflwyniadau a dderbyniwyd yn DL6 a DL6A, gan gynnwys unrhyw AP(au) ychwanegol; IP(au) ychwanegol; neu IP(s), yn ogystal ag unrhyw RRs neu WRs a wneir yn unol â CR1 a/neu CR2 sy'n ymwneud â'r ddarpariaeth arfaethedig.
- \* Ymateb i sylwadau Ymgeisydd ar RRs a dderbyniwyd yn DL6A.
- \* Ymatebion i ExQ3 (yn ôl y gofyn).
- \* Crynodebau ysgrifenedig o'r cyflwyniadau llafar a wnaed mewn unrhyw Wrandawiadau (yn ôl y gofyn).
- \* Sylwadau ar y RIES (yn ôl y gofyn).
- \* Sylwadau ar restr newidiadau arfaethedig yr Awdurdod Archwilio i'r dDCO (yn ôl y gofyn).
- \* Datganiadau Tir Cyffredin terfynol.
- \* Datganiad Cyffredinrwydd terfynol ar gyfer y Datganiadau Tir Cyffredin.
- \* Rhestr derfynol o'r CA / TP mewn fersiwn lân a fersiwn sy'n dangos y newidiadau.
- \* Llyfr Cyfeirio terfynol mewn fersiwn lân a fersiwn sy'n dangos y newidiadau.
- \* Datganiad o Resymau terfynol mewn fersiwn lân a fersiwn sy'n dangos y newidiadau.
- \* Traciwr NPS / Traciwr Prosbectws NPPF / Traciwr NDMP terfynol, fel sy'n berthnasol i'r Cais NSIP (yn ôl y gofyn), mewn fersiwn lân a fersiwn sy'n dangos y newidiadau.
- \* Rhestr o'r Newidiadau i'r Llyfr Cyfeirio mewn fersiwn lân a fersiwn sy'n dangos y newidiadau.
- \* Traciwr Dogfennau'r Cais terfynol mewn fersiwn lân a fersiwn sy'n dangos y newidiadau.
- \* Diweddariad terfynol ar y Drwydded Forol.
- \* Gorchymyn Caniatâd Datblygu (DCO) dewisol yr Ymgeisydd yn adroddiad dilysu templed SI a chopi dilys o'r DCO.

- \* DCO dewisol yr ymgeisydd ar ffurf Word.
- \* Rhestr Derfynol o'r Newidiadau i'r dDCO.
- \* Unrhyw wybodaeth bellach a geisiwyd gan yr Awdurdod Archwilio (yn ôl y gofyn).

Deadline for receipt by the ExA of:

- Comments on any submissions received at DL6 and DL6A, including any additional affected person; additional interested party; or interested party, as well as any RRs or WRs made pursuant to CR1, CR2 and/ or CR3 relating to the proposed provision(s).
- Response to Applicant's comments on RRs received at DL6A.
- Responses to ExQ3 (if required).
- Written summaries of oral submissions at hearings (if required).
- Comments on the RIES (if required).
- Comments on the ExA's proposed schedule of changes to the dDCO (if required).
- Finalised SoCGs.
- Final Statement of Commonality for SoCG.
- Final CA/ TP Schedule in clean and tracked versions.
- Final BoR in clean and tracked versions.
- Final Statement of Reasons in clean and tracked versions.
- Finalised NPS tracker/ NPPF Prospectus Tracker/ NDMP Tracker, as relevant to the NSIP Application (if required), in clean and tracked versions.
- Schedule of Changes to the BoR in clean and tracked versions.
- Final Application Document Tracker, in clean and tracked versions.
- Final update on the ML.
- Applicant's preferred Development Consent Order (DCO) in the SI template validation report and a validated copy of the DCO.
- Applicant's preferred DCO in word format.
- Final Schedule of Changes to the dDCO.
- Any further information requested by the ExA (if required).

REP7-001	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.1.13 Deadline 7 Cover Letter - With Appendices Rev A
REP7-002	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.1.2 Application Guide Rev C (Clean)
REP7-003	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.1.2 Application Guide Rev C (Tracked)
REP7-004	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.1.3 Application Document Tracker Rev M (Clean)
REP7-005	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.1.3 Application Document Tracker Rev M (Tracked)
REP7-006	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.2.1 Location Plan Rev E



REP7-007	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.2.4 Works Plan Rev H
REP7-008	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.2.6 Special Category Land Plans Rev C
REP7-009	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.2.9 BVS Planning Arrangements Rev C
REP7-010	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.2.10 AGI Location Plans Rev C
REP7-011	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.2.12 AGI Planning Arrangements Rev C
REP7-012	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.2.14 BVS and AGI Landscape Layouts Rev C
REP7-013	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.3.1 Draft Development Consent Order Rev I (Applicant's preferred version - trenched crossing) (Clean)
REP7-014	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.3.1 Draft Development Consent Order Rev J (Pipe bridge version) (Clean)
REP7-015	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.3.1 Draft Development Consent Order Rev I (Comparison - Applicant's preferred (I) to embedded pipe bridge (J) (Tracked)
REP7-016	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.3.1 Draft Development Consent Order Rev I (Revision H to Revision I) (Tracked)
REP7-017	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.3.2 Explanatory Memorandum Rev F (for Rev I of the dDCO - Applicant's preferred version) (Clean)
REP7-018	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.3.2 Explanatory Memorandum Rev G (for Rev J of the dDCO - pipe bridge version) (Clean)
REP7-019	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.3.2 Explanatory Memorandum Rev G (Preferred and pipe bridge versions) (Tracked)
REP7-020	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.3.3 Schedule of Changes to the Draft DCO (to Revision I) Rev G
REP7-021	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.4.1 Statement of Reasons Rev I (Clean)
REP7-022	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.4.1 Statement of Reasons Rev I (Tracked)
REP7-023	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 7 Submission - D.4.1.1 Schedule of Negotiations with Land Interests Rev I (Clean)
REP7-024	<a href="#">Liverpool Bay CCS Limited</a> (PDF, 2 MB) Deadline 7 Submission - D.4.1.1 Schedule of Negotiations with Land Interests Rev I (Tracked)
REP7-025	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.4.3 Book of Reference Rev I (Clean)
REP7-026	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.4.3 Book of Reference Rev I (Tracked)
REP7-027	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.4.3.1 Book of Reference - Schedule of Changes Rev F
REP7-028	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.5.2 Other Consents and Licenses Rev E (Clean)
REP7-029	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.5.2 Other Consents and Licenses Rev E (Tracked)
REP7-030	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.1 Environmental Statement - Non Technical Summary Rev D (Clean)
REP7-031	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.1 Environmental Statement - Non Technical Summary Rev D (Tracked)
REP7-032	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.1a Environmental Statement - Non Technical Summary - Welsh (Clean)
REP7-033	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.1a Environmental Statement - Non Technical Summary - Welsh (Tracked)
REP7-034	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.1 Environmental Statement - Chapter 01 Introduction Rev A
REP7-035	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.2 Environmental Statement - Chapter 02 The Project Rev A
REP7-036	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.3 Environmental Statement - Chapter 03 Description of the DCO Proposed Development Rev C (Clean)
REP7-037	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.3 Environmental Statement - Chapter 03 Description of the DCO Proposed Development Rev C (Tracked)
REP7-038	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.4 Environmental Statement - Chapter 04 Consideration of Alternatives Rev C (Clean)
REP7-039	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.4 Environmental Statement - Chapter 04 Consideration of Alternatives Rev C (Tracked)

REP7-040	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.5 Environmental Statement - Chapter 05 EIA Methodology Rev B
REP7-041	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.6 Environmental Statement - Chapter 06 Air Quality Rev B
REP7-042	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.7 Environmental Statement - Chapter 07 Climate Resilience Rev C (Clean)
REP7-043	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.7 Environmental Statement - Chapter 07 Climate Resilience Rev C (Tracked)
REP7-044	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.8 Environmental Statement - Chapter 08 Cultural Heritage Rev C (Clean)
REP7-045	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.8 Environmental Statement - Chapter 08 Cultural Heritage Rev C (Tracked)
REP7-046	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.9 Environmental Statement - Chapter 09 Biodiversity Rev D (Clean)
REP7-047	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.9 Environmental Statement - Chapter 09 Biodiversity Rev D (Tracked)
REP7-048	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.10 Environmental Statement - Chapter 10 Greenhouse Gases Rev C (Clean)
REP7-049	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.10 Environmental Statement - Chapter 10 Greenhouse Gases Rev C (Tracked)
REP7-050	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.11 Environmental Statement - Chapter 11 Land and Soils Rev C (Clean)
REP7-051	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.11 Environmental Statement - Chapter 11 Land and Soils Rev C (Tracked)
REP7-052	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.12 Environmental Statement - Chapter 12 Landscape and Visual Rev C (Clean)
REP7-053	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.12 Environmental Statement - Chapter 12 Landscape and Visual Rev C (Tracked)
REP7-054	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.13 Environmental Statement - Chapter 13 Major Accidents and Disasters Rev B (Clean)
REP7-055	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.14 Environmental Statement - Chapter 14 Materials and Waste Rev C (Clean)
REP7-056	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.14 Environmental Statement - Chapter 14 Materials and Waste Rev C (Tracked)

REP7-057	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.15 Environmental Statement - Chapter 15 Noise and Vibration Rev C (Clean)
REP7-058	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.15 Environmental Statement - Chapter 15 Noise and Vibration Rev C (Tracked)
REP7-059	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.16 Environmental Statement - Chapter 16 Population and Human Health Rev C (Clean)
REP7-060	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.16 Environmental Statement - Chapter 16 Population and Human Health Rev C (Tracked)
REP7-061	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.17 Environmental Statement - Chapter 17 Traffic and Transport Rev C (Clean)
REP7-062	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.17 Environmental Statement - Chapter 17 Traffic and Transport Rev C (Tracked)
REP7-063	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.18 Environmental Statement - Chapter 18 Water Resources and Flood Risk Rev C (Clean)
REP7-064	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.18 Environmental Statement - Chapter 18 Water Resources and Flood Risk Rev C (Tracked)
REP7-065	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.19 Environmental Statement - Chapter 19 Combined and Cumulative Effects Rev C (Clean)
REP7-066	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.19 Environmental Statement - Chapter 19 Combined and Cumulative Effects Rev C (Tracked)
REP7-067	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.20 Environmental Statement - Chapter 20 Summary of Likely Significant Effects Rev C (Clean)
REP7-068	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.2.20 Environmental Statement - Chapter 20 Summary of Likely Significant Effects Rev C (Tracked)
REP7-069	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.1.1 Environmental Statement - Appendix 1.1 EIA Scoping Report Part 1 Rev A
REP7-070	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.1.1 Environmental Statement - Appendix 1.1 EIA Scoping Report Part 2 Rev A
REP7-071	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.1.2 Environmental Statement - Appendix 1.2 EIA Scoping Opinion Rev A
REP7-072	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.1.3 Environmental Statement - Appendix 1.3 Scoping Opinion Responses Rev A
REP7-073	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 7 Submission - D.6.3.3.1 Environmental Statement - Appendix 3.1 Table of Trenchless Crossings Rev B
REP7-074	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.3.2 Environmental Statement - Appendix 3.2 Indicative Plant and Equipment Rev B
REP7-075	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.4.1 Environmental Statement - Appendix 4.1 Guiding Principles Factors and Criteria for Options Rev A
REP7-076	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.5.1 Environmental Statement - Appendix 5.1 Relevant Expertise and Competency Rev B
REP7-077	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.6.1 Environmental Statement - Appendix 6.1 Construction Dust Assessment Rev C (Clean)
REP7-078	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.6.1 Environmental Statement - Appendix 6.1 Construction Dust Assessment Rev C (Tracked)
REP7-079	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.6.2 Environmental Statement - Appendix 6.2 Impurities Venting Rev A
REP7-080	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.7.1 Environmental Statement - Appendix 7.1 Climate Resilience Preliminary Assessment Rev A
REP7-081	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.8.1 Environmental Statement - Appendix 8.1 Historic Environment Desk Based Assessment Rev C (Clean)
REP7-082	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.8.2 Environmental Statement - Appendix 8.2 Gazetteer Rev A
REP7-083	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.8.3 Environmental Statement - Appendix 8.3 Aerial Photograph and LiDAR Review Rev B (Clean)
REP7-084	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.8.3 Environmental Statement - Appendix 8.3 Aerial Photograph and LiDAR Review Rev B (Tracked)
REP7-085	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.8.4 Environmental Statement - Appendix 8.4 Geophysical Survey Report Rev A
REP7-086	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.8.5 Environmental Statement - Appendix 8.5 Geoarchaeological Deposit Model Report Rev A
REP7-087	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.1 Environmental Statement - Appendix 9.1 Habitats and Designated Sites Rev C (Clean)
REP7-088	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.1 Environmental Statement - Appendix 9.1 Habitats and Designated Sites Rev C (Tracked)

REP7-089	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.2 Environmental Statement - Appendix 9.2 Great Crested Newt Survey Report Rev C (Clean)
REP7-090	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.2 Environmental Statement - Appendix 9.2 Great Crested Newt Survey Report Rev C (Tracked)
REP7-091	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.3 Environmental Statement - Appendix 9.3 Bat Activity Survey Rev E (Clean)
REP7-092	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.3 Environmental Statement - Appendix 9.3 Bat Activity Survey Rev E (Tracked)
REP7-093	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment Rev D (Clean)
REP7-094	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.4 Environmental Statement - Appendix 9.4 Bats and Hedgerows Assessment Rev D (Tracked)
REP7-095	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.5 Environmental Statement - Appendix 9.5 Badger Survey Report (Confidential) Rev C (Clean)
REP7-096	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.5 Environmental Statement - Appendix 9.5 Badger Survey Report (Confidential) Rev C (Tracked)
REP7-097	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.6 Environmental Statement - Appendix 9.6 Riparian Mammal Survey Report Rev D (Clean)
REP7-098	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.6 Environmental Statement - Appendix 9.6 Riparian Mammal Survey Report Rev D (Tracked)
REP7-099	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.7 Environmental Statement - Appendix 9.7 Barn Owl Survey Report (Confidential) Rev C (Tracked)
REP7-100	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.7 Environmental Statement - Appendix 9.7 Barn Owl Survey Report (Confidential) Rev C (Clean)
REP7-101	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.8 Environmental Statement - Appendix 9.8 Bird Report Rev C (Clean)
REP7-102	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.8 Environmental Statement - Appendix 9.8 Bird Report Rev C (Tracked)
REP7-103	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.9 Environmental Statement - Appendix 9.9 Aquatic Ecology (Watercourses) Survey Report Rev C (Clean)



REP7-104	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.9 Environmental Statement - Appendix 9.9 Aquatic Ecology (Watercourses) Survey Report Rev C (Tracked)
REP7-105	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.10 Environmental Statement - Appendix 9.10 Aquatic Ecology (Ponds) Survey Report Rev C (Clean)
REP7-106	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.10 Environmental Statement - Appendix 9.10 Aquatic Ecology (Ponds) Survey Report Rev C (Tracked)
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REP7-108	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.9.11 Environmental Statement - Appendix 9.11 Arboricultural Impact Assessment Rev D (Tracked)
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REP7-113	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Rev A Part 4
REP7-114	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Rev A Part 5
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REP7-117	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Rev A Part 8
REP7-118	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Rev A Part 9

REP7-119	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.11.2 Environmental Statement - Appendix 11.2 Coal Mining Risk Assessment Rev A Part 10
REP7-120	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.11.3 Environmental Statement - Appendix 11.3 Mineral Resource Assessment Part 1 Rev A
REP7-121	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.11.3 Environmental Statement - Appendix 11.3 Mineral Resource Assessment Part 2 Rev A
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REP7-123	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.11.5 Environmental Statement - Appendix 11.5 Agricultural Land Classification & Soil Resources (BVS) Rev A
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REP7-137	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.15.3 Environmental Statement - Appendix 15.3 Noise and Vibration Assessment Results Rev C (Tracked)
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REP7-143	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.17.2 Environmental Statement - Appendix 17.2 Methodology Rev B (Clean)
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REP7-150	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.17.5 Environmental Statement - Appendix 17.5 Public Rights of Way by Section Rev B (Tracked)

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REP7-152	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.17.6 Environmental Statement - Appendix 17.6 Section by Section Descriptions Rev B (Clean)
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REP7-179	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.18.5 Environmental Statement - Appendix 18.5 Flood Consequences Assessment Part 1 Rev C (Tracked)
REP7-180	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.18.5 Environmental Statement - Appendix 18.5 Flood Consequences Assessment Part 2 Rev C (Clean)
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REP7-182	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.3.18.5 Environmental Statement - Appendix 18.5 Flood Consequences Assessment Part 3 Rev C (Clean)
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REP7-253	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.5.12 Biodiversity Net Gain Assessment Rev C (Tracked)
REP7-254	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.5.13 Outline Surface Water Drainage Strategy Rev D (Clean)
REP7-255	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.5.13 Outline Surface Water Drainage Strategy Rev D (Tracked)
REP7-256	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.5.13.1 Outline Surface Water Drainage Strategy - Annex A - Proposed Development Plans and Topographical Survey Rev B
REP7-257	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.6.5.13.2 Outline Surface Water Drainage Strategy - Annex B - Proposed Conceptual Drainage Layout and Typical Drainage Construction Detail Rev C
REP7-258	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.2 Statement of Commonality for Statements of Common Ground Rev H
REP7-259	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.2.1 Statement of Common Ground - Flintshire County Council Rev F
REP7-260	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.2.3 Statement of Common Ground - Natural England Rev D
REP7-261	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.2.4 Statement of Common Ground - Natural Resources Wales Rev E
REP7-262	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.2.8 Statement of Common Ground - Peel NRE Limited Rev F



REP7-263	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.2.9 Statement of Common Ground - National Highways Rev E
REP7-264	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.2.10 Statement of Common Ground - Welsh Government Rev D
REP7-265	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.2.11 Statement of Common Ground - Canal & River Trust Rev D
REP7-266	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.2.14 Statement of Common Ground - Dwr Cymru Welsh Water Rev B
REP7-267	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.2.20 Statement of Common Ground - Scottish Power Energy Networks (SPEN) Rev B
REP7-268	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - Late Submission - Accepted at the discretion of the Examining Authority - D.7.2.23 Statement of Common Ground - Wales and West Utilities Rev C
REP7-269	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.2.26 Statement of Common Ground - Network Rail Rev E
REP7-270	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.2.32 Statement of Common Ground - Royal Mail Group Limited Rev C
REP7-271	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.15 Outline Operational and Maintenance Environmental Management Plan (OMEMP) Rev D (Clean)
REP7-272	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.15 Outline Operational and Maintenance Environmental Management Plan (OMEMP) Rev D (Tracked)
REP7-273	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.23 Biodiversity Net Gain Strategy Update Rev E (Clean)
REP7-274	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.23 Biodiversity Net Gain Strategy Update Rev E (Tracked)
REP7-275	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - Late Submission - Accepted at the discretion of the Examining Authority - D.7.2.27 Statement of Common Ground - 2 Sisters Food Group Rev D
REP7-276	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.32 Outline Materials Management Plan Rev B (Clean)
REP7-277	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.32 Outline Materials Management Plan Rev B (Tracked)
REP7-278	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 7 Submission - D.7.36 Hydrogeological Impact Appraisal of Open Cut Crossing - Alltami Brook Rev B (Clean)
REP7-279	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.36 Hydrogeological Impact Appraisal of Open Cut Crossing - Alltami Brook Rev B (Tracked)
REP7-280	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.2.37 Statement of Common Ground - HyNet North West Hydrogen Pipeline Rev B
REP7-281	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.39 Outline Noise and Vibration Management Plan Rev B (Clean)
REP7-282	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.39 Outline Noise and Vibration Management Plan Rev B (Tracked)
REP7-283	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.41 Outline Groundwater Management and Monitoring Plan Rev B (Clean)
REP7-284	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.41 Outline Groundwater Management and Monitoring Plan Rev B (Tracked)
REP7-285	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.43 Outline Surface Water Management and Monitoring Plan Rev C (Clean)
REP7-286	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.43 Outline Surface Water Management and Monitoring Plan Rev C (Tracked)
REP7-287	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.44 Hynet Outline Dewatering Management Plan Rev B (Clean)
REP7-288	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.44 Hynet Outline Dewatering Management Plan Rev B (Tracked)
REP7-289	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.54 Applicant's Comments on the Report on the Implications for European Sites Rev A
REP7-290	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.56 Applicant's Comments on Submissions Received at Deadline 6 & Deadline 6A - Rev A
REP7-291	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.58 Applicant's Response to the Examining Authority's Third Written Questions Rev A
REP7-292	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.59 Written Summaries of Oral Submissions made at the Hearings held during the week commencing 7 August Rev A
REP7-293	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.61 Ground Investigation Technical Report Rev A
REP7-294	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - D.7.62 Applicant's update on the DCO Drafting Rev A

REP7-295	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - Outline Surface Water Drainage Strategy - Annex C - Proposed Storage Calculations Rev b
REP7-296	<a href="#">Liverpool Bay CCS Limited</a> Deadline 7 Submission - Outline Surface Water Drainage Strategy - Annex D - Correspondences Rev B
REP7-297	<a href="#">Cadent Gas Limited</a> Deadline 7 Submission
REP7-298	<a href="#">Canal River Trust</a> Deadline 7 Submission
REP7-299	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 7 Submission - Cover Letter
REP7-300	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 7 Submission - Appendix 2 - Protective Provisions (Clean)
REP7-301	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 7 Submission - Appendix 2 - Protective Provisions (Tracked)
REP7-302	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 7 Submission - EIA Screening Opinion Email
REP7-303	<a href="#">Cheshire West and Chester Borough Council</a> Deadline 7 Submission - Screening Matrix
REP7-304	<a href="#">Cheshire West And Chester Council</a> Deadline 7 Submission - Cover Letter
REP7-305	<a href="#">Cheshire West and Chester Council</a> Deadline 7 Submission - Response to ExQ3
REP7-306	<a href="#">Cheshire West and Chester Council</a> Deadline 7 Submission - Written Representation
REP7-307	<a href="#">Cheshire West and Chester Council</a> Deadline 7 Submission - Screening Checklist and Opinion
REP7-308	<a href="#">Cheshire West and Chester Council</a> Deadline 7 Submission
REP7-309	<a href="#">Environment Agency</a> Deadline 7 Submission
REP7-310	<a href="#">Flintshire County Council</a> Deadline 7 Submission - Written Submission from Compulsory Acquisition Hearing 2 on 10 August 2023
REP7-311	<a href="#">Flintshire County Council</a> Deadline 7 Submission - Response to ExQ3
REP7-312	<a href="#">Flintshire County Council</a> Deadline 7 Submission - Comments on the Applicant's Deadline 6 response
REP7-313	<a href="#">Flintshire County Council</a> Deadline 7 Submission - Summary of Oral Representation for Issue Specific Hearing 3
REP7-314	<a href="#">Health and Safety Executive</a> Deadline 7 Submission - Response to ExQ2
REP7-315	<a href="#">Liverpool Friends of the Earth</a> Deadline 7 Submission
REP7-316	<a href="#">National Highways</a> Deadline 7 Submission

REP7-317	<a href="#">Natural England</a> Deadline 7 Submission
REP7-318	<a href="#">Natural Resources Wales</a> Deadline 7 Submission
REP7-319	<a href="#">Woodland Trust</a> Deadline 7 Submission
REP7-320	<a href="#">Carolyn Thomas MS</a> Deadline 7 Submission
REP7-321	<a href="#">Eversheds Sutherland LLP on behalf of Encirc Limited</a> Deadline 7 Submission - Draft Protective Provisions
REP7-322	<a href="#">Eversheds Sutherland LLP on behalf of Encirc Limited</a> Deadline 7 Submission - Comparative Table
REP7-323	<a href="#">Eversheds Sutherland LLP on behalf of Encirc Limited</a> Deadline 7 Submission
REP7-324	<a href="#">Nicky Crosby</a> Deadline 7 Submission
REP7-325	<a href="#">Stephens Scown LLP on behalf of Stephen Oultram and Catherine Oultram</a> Deadline 7 Submission
REP7-326	<a href="#">Turley on behalf of Peel NRE</a> Deadline 7 Submission
<p><b>Dyddiad Cau 8 (DC8) - 12 Medi 2023 / Deadline 8 (DL8) - 12 September 2023</b></p> <p>Dyddiad cau i'r Awdurdod Archwilio dderbyn y canlynol:</p> <ul style="list-style-type: none"> <li>* Sylwadau ar ymatebion i ExQ3 (yn ôl y gofyn).</li> <li>* Sylwadau ar unrhyw gyflwyniadau eraill a gafwyd erbyn DC7.</li> <li>* Cyflwyniadau terfynol.</li> <li>* Unrhyw wybodaeth bellach a geisiwyd gan yr Awdurdod Archwilio (yn ôl y gofyn).</li> </ul> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>- Comments on responses to ExQ3 (if required).</li> <li>- Comments on any submissions received at DL7.</li> <li>- Closing submissions.</li> <li>- Any further information requested by the ExA (if required)</li> </ul>	
REP8-001	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.1.14 Deadline 8 Cover Letter Rev A
REP8-002	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.1.3 Application Document Tracker Rev N (Clean)
REP8-003	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.1.3 Application Document Tracker Rev N (Tracked)
REP8-004	<a href="#">Liverpool Bay CCS Limited</a>

	Deadline 8 Submission - D.2.5 Access and Rights of Way Plan Rev F
REP8-005	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.3.1 Draft Development Consent Order Rev K (Applicant's Preferred Version - trenched crossing) (Clean)
REP8-006	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.3.1 Draft Development Consent Order Rev K (Applicant's Preferred Version - trenched crossing) (Tracked)
REP8-007	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.3.1 Draft Development Consent Order Rev L (Deadline 8 - Pipe bridge version) (Clean)
REP8-008	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.3.1 Draft Development Consent Order Rev L (Deadline 8 - Pipe bridge version) (Tracked)
REP8-009	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.3.3 Schedule of Changes to the Draft DCO Rev I (to Revision K)
REP8-010	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.4.1.1 Schedule of Negotiations with Land Interests Rev J (Clean)
REP8-011	<a href="#">Liverpool Bay CCS Limited</a> (PDF, 2 MB) Deadline 8 Submission - D.4.1.1 Schedule of Negotiations with Land Interests Rev J (Tracked)
REP8-012	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.6.3.8.1 Appendix 8.1 Historic Environment Desk Based Assessment (HEDBA) Rev C (Tracked)
REP8-013	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.6.3.18.3 Appendix 18.3 Water Framework Directive Assessment Rev D (Clean)
REP8-014	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.6.3.18.3 Appendix 18.3 Water Framework Directive Assessment Rev D (Tracked)
REP8-015	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.6.3.18.5 Appendix 18.5 Flood Consequences Assessment Rev C (Clean) - Part 1
REP8-016	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.6.3.18.5 Appendix 18.5 Flood Consequences Assessment Rev C (Clean) - Part 2
REP8-017	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.6.3.18.5 Appendix 18.5 Flood Consequences Assessment Rev C (Clean) - Part 3
REP8-018	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.6.5.4.4 Outline Peat Management Plan Rev D (Clean)
REP8-019	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.6.5.4.4 Outline Peat Management Plan Rev D (Tracked)

REP8-020	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.2 Statement of Commonality for Statements of Common Ground Rev I
REP8-021	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.2.2 Statement of Common Ground - Cheshire West and Chester Council Rev E
REP8-022	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.2.3 Statement of Common Ground - Natural England Rev E
REP8-023	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.2.23 Statement of Common Ground - Wales and West Utilities Rev D
REP8-024	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.23 Biodiversity Net Gain Strategy Update Rev F (Clean)
REP8-025	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.23 Biodiversity Net Gain Strategy Update Rev F (Tracked)
REP8-026	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.2.26 Statement of Common Ground - Network Rail (England & Wales)
REP8-027	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.2.28 Statement of Common Ground - Vertex Hydrogen Limited Rev B
REP8-028	<b>REFERENCE NOT IN USE</b>
REP8-029	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.43 Outline Surface Water Management and Monitoring Plan Rev D (Clean)
REP8-030	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.43 Outline Surface Water Management and Monitoring Plan Rev D (Tracked)
REP8-031	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.44 Outline Dewatering Management Plan Rev C (Clean)
REP8-032	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.44 Outline Dewatering Management Plan Rev C (Tracked)
REP8-033	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.61 Ground Investigation Technical Report Rev B (Clean)
REP8-034	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.61 Ground Investigation Technical Report Rev B (Tracked)
REP8-035	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.63 Applicant's Response to Submissions Received at Deadline 7 Rev A
REP8-036	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.64 Applicant's Comments on responses to Examining Authority's Third Written Questions Rev A



REP8-037	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.65 Applicant's Final Position Statement Rev A
REP8-038	<a href="#">Liverpool Bay CCS Limited</a> Deadline 8 Submission - D.7.66 King's Counsel opinion on National Highways Submissions Rev A
REP8-039	<a href="#">Cadent Gas Limited</a> Deadline 8 Submission
REP8-040	<a href="#">Canal and River Trust</a> Deadline 8 Submission
REP8-041	<a href="#">Cheshire West and Chester Council</a> Deadline 8 Submission - Cover Letter
REP8-041a	<a href="#">Cheshire West and Chester Council</a> Deadline 8 Submission
REP8-042	<a href="#">Cheshire West and Chester Council</a> Deadline 8 Submission - Affected highways for Protective Provisions
REP8-043	<a href="#">Environment Agency</a> Deadline 8 Submission
REP8-044	<a href="#">Flintshire County Council</a> Deadline 8 Submission
REP8-045	<a href="#">Health and Safety Executive</a> Deadline 8 Submission - Late Submission - Accepted at the discretion of the Examining Authority
REP8-046	<a href="#">National Highways Limited</a> Deadline 8 Submission
REP8-047	<a href="#">Turley on behalf of Peel NRE</a> Deadline 8 Submission - Written Response Statement
REP8-048	<a href="#">Turley on behalf of Peel NRE</a> Deadline 8 Submission
REP8-049	<a href="#">United Utilities Water Limited</a> Deadline 8 Submission
REP8-050	<a href="#">Veale Wasbrough Vizards LLP on behalf of Exolum Pipeline System Limited</a> Deadline 8 Submission
REP8-051	<a href="#">Veale Wasbrough Vizards LLP on behalf of Exolum Pipeline System Limited</a> Deadline 8 Submission - Protective Provisions

**Dyddiad Cau 9 (DC9) - 20 Medi 2023 / Deadline 9 (DL9) - 20 September 2023**

Dyddiad Cau i'w dderbyn gan yr ExA:

\* ymateb yr Ymgeisydd i lythyr Rheol 17 yr ExA, dyddiedig 14 Medi 2023; a

os bydd wedi newid ers DL7, i'r Ymgeisydd gyflwyno:

\* Canllaw terfynol i'r Cais;

\* Diweddariad terfynol ynghylch cynnydd sydd wedi'i wneud gyda Phersonau yr Effeithiwyd arnynt mewn perthynas â CA a TP;

\* Llyfr Cyfeirio terfynol;

- \* Amserlen CA/TP terfynol;
- \* DCO terfynol a ffafir gan yr Ymgeisydd yn adroddiad dilysu templed SI, a chopi o'r DCO wedi'i ddilysu; a
- \* DCO a ffafir gan yr Ymgeisydd mewn fformat Microsoft Word.

Deadline for receipt by the ExA of:

- the Applicant's response to the ExA's Rule 17 letter, dated 14 September 2023; and

if changes since DL7, for the Applicant to submit:

- the final Guide to the Application;
- the final update regarding progress that has been made with Affected Persons in respect of CA and TP;
- the final Book of Reference;
- the final CA/ TP schedule;
- the Applicant's final preferred DCO in the SI template validation report and validated copy of the DCO; and
- the Applicant's preferred DCO in word format.

REP9-001	<a href="#">Liverpool Bay CCS Limited</a> Deadline 9 Submission - D.4.1.1 Schedule of negotiations with land interests Rev K (Tracked)
REP9-002	<a href="#">Liverpool Bay CCS Limited</a> Deadline 9 Submission - D.1.3 Application Document Tracker Rev O (Clean)
REP9-003	<a href="#">Liverpool Bay CCS Limited</a> Deadline 9 Submission - D.7.2.12 Statement of Common Ground - Cadent Gas Rev D
REP9-004	<a href="#">Liverpool Bay CCS Limited</a> Deadline 9 Submission - D.7.2.5 Statement of Common Ground - Environment Agency Rev B
REP9-005	<a href="#">Liverpool Bay CCS Limited</a> Deadline 9 Submission - D.7.12 Compulsory Acquisition (CA) & Temporary Possession (TP) Schedule (s127 & s138) Rev B (Tracked)
REP9-006	<a href="#">Liverpool Bay CCS Limited</a> Deadline 9 Submission - D.7.2 Statement of Commonality for Statements of Common Ground Rev J
REP9-007	<a href="#">Liverpool Bay CCS Limited</a> Deadline 9 Submission - D.1.3 Application Document Tracker Rev O (Tracked)
REP9-008	<a href="#">Liverpool Bay CCS Limited</a>



	Deadline 9 Submission - D.7.2.13 Statement of Common Ground - Essar Oil (UK) Limited Rev D
REP9-009	<a href="#">Liverpool Bay CCS Limited</a> Deadline 9 Submission - D.7.2.23 Statement of Common Ground - Wales and West Utilities Rev E
REP9-010	<a href="#">Liverpool Bay CCS Limited</a> Deadline 9 Submission - DCO Validation Report
REP9-011	<a href="#">Liverpool Bay CCS Limited</a> Deadline 9 Submission - D.3.1 Draft Development Consent Order Rev K (Preferred Version - trenched crossing) (Clean)
REP9-012	<a href="#">Liverpool Bay CCS Limited</a> Deadline 9 Submission - D.7.67 Applicant's Response to Rule 17 request for further information
REP9-013	<a href="#">Liverpool Bay CCS Limited</a> Deadline 9 Submission - D.7.1.15 Deadline 9 Cover Letter
REP9-014	<a href="#">Liverpool Bay CCS Limited</a> Deadline 9 Submission - D.7.12 Compulsory Acquisition (CA) & Temporary Possession (TP) Schedule (s127 & s138) Rev B (Clean)
REP9-015	<a href="#">Liverpool Bay CCS Limited</a> Deadline 9 Submission - D.4.1.1 Schedule of negotiations with land interests Rev K (Clean)
REP9-016	<a href="#">The Crown Estate</a> Deadline 9 Submission - Section 135
REP9-017	<a href="#">United Utilities Water Limited</a> Deadline 9 Submission - Protective Provisions
REP9-018	<a href="#">United Utilities Water Limited</a> Deadline 9 Submission - Cover Letter
<b>Dogfennau Eraill/ Other Documents</b>	
OD-001	<a href="#">Liverpool Bay CCS Limited</a> Rhybudd a56 yr Ymgeisydd o gais wedi'i dderbyn  <a href="#">Liverpool Bay CCS Limited</a>

	Section 56 Notice
OD-002	<p><a href="#">Liverpool Bay CCS Limited</a></p> <p>Rhybudd a56 yr Ymgeisydd o gais wedi'i dderbyn</p> <p><a href="#">Liverpool Bay CCS Limited</a></p> <p>Certificates of compliance</p>
OD-003	<p><a href="#">Liverpool Bay CCS Limited</a></p> <p>Hysbysiad o Wrandawriad</p> <p><a href="#">Liverpool Bay CCS Limited</a></p> <p>Hearing Notice</p>
OD-004	<p><a href="#">Liverpool Bay CCS Limited</a></p> <p>Tystysgrif cydymffurfio â Rheoliad Caffael Gorfodol 9 (a)</p> <p><a href="#">Liverpool Bay CCS Limited</a></p> <p>Certificate of compliance with Compulsory Acquisition Regulation 9 (a)</p>
OD-005	<p><a href="#">Liverpool Bay CCS Limited</a></p> <p>Thystysgrif gydymffurfiaeth â Rheoliad Caffael Gorfodol 9 (b)</p> <p><a href="#">Liverpool Bay CCS Limited</a></p> <p>Certificate of compliance with Compulsory Acquisition Regulation 9 (b)</p>
OD-006	<p><a href="#">Liverpool Bay CCS Limited</a></p> <p>Tystysgrif cydymffurfio â Rheoliad Caffael Gorfodol 9 (a)</p> <p><a href="#">Liverpool Bay CCS Limited</a></p> <p>Certificate of compliance with Compulsory Acquisition Regulation 9 (a)</p>

OD-007	<p><a href="#">Liverpool Bay CCS Limited</a></p> <p>Tystysgrif cydymffurfio â Rheoliad Caffael Gorfodol 9 (b)</p> <p><a href="#">Liverpool Bay CCS Limited</a></p> <p>Certificate of compliance with Compulsory Acquisition Regulation 9 (b)</p>
OD-008	<p><a href="#">Adroddiad ar y Goblygiadau i Safleoedd Ewropeaidd (RIES)</a></p> <p>Cyhoeddwyd gan yr Awdurdod Archwilio - 1 Awst 2023</p> <p><a href="#">Report on the Implications for European Sites (RIES)</a></p> <p>Issued by the Examining Authority - 1 August 2023</p>
OD-009	<p><a href="#">Rheoliad 32 - Sgrinio Trawsffiniol</a></p> <p><a href="#">HYNE - Regulation 32 Transboundary Screening</a></p>

## **APPENDIX C: LIST OF ABBREVIATIONS**

<b>Abbreviation or acronym</b>	<b>Reference</b>
AA	Appropriate Assessment
ACoW	Arboricultural Clerk of Works
AEoI	Adverse Effects on Integrity
AGI	Above Ground Installation
AMS	Arboricultural Method Statement
ANCB	Appropriate Nature Conservation Bodies
AP	Affected Person/ Persons
APA	Asset Protection Agreement
APV	Applicant's Preferred Version
APV	Applicant's Preferred Version
AQMA	Air Quality Management Area(s)
AS	Additional Submission
ASI	Accompanied Site Inspection
AWSI	Archaeological Written Scheme Investigation
BEIS	Business, Energy and Industrial Strategy
BMV	Best and Most Versatile
BNG	Biodiversity Net Gain
BoR	Book of Reference
BVS	Block Valve Station
CA	Compulsory Acquisition
CA Guidance	Department for Communities and Local Government's guidance on compulsory acquisition
CA Regulations	Infrastructure Planning (CA) Regulations 2010
CAH	Compulsory Acquisition Hearing
CAH1	Compulsory Acquisition Hearing 1
CAH2	Compulsory Acquisition Hearing 2
CCS	Carbon Capture and Storage
CCUS	Carbon Capture, Usage and Storage
CEMP	Construction Environmental Management Plan

CIEEM	Chartered Institute of Ecology and Environmental Management
CO <sub>2</sub>	Carbon Dioxide
COMAH	Control of Major Accident Hazards
CP	Cathodic Protection
CR	Change Request
CR1	Change Request 1
CR2	Change Request 2
CR3	Change Request 3
CRT	Canal and River Trust
CWCC	Cheshire West and Chester Borough Council
dB	decibel
DCO	Development Consent Order
DCWW	Dŵr Cymru Welsh Water
dDCO	draft Development Consent Order
DESNZ	Department of Energy Security and Net Zero
DL	Deadline
dNPS	draft National Policy Statements
dNPS	draft National Policy Statement
dNPS EN-1	draft National Policy Statement 1 (Overarching National Policy Statement for Energy)
dNPS EN-4	draft National Policy Statement 2 (Gas Supply Infrastructure and Gas and Oil Pipelines)
dSoCG	Draft Statements of Common Ground
E&I	Electrical and Instrumentation
EA	Environment Agency
EIA	Environmental Impact Assessment
EIA Regulations	Infrastructure Planning (EIA) Regulations 2017
EL	Examination Library
ELC	European Landscape Convention
EM	Explanatory Memorandum
EPBV	Embedded Pipe Bridge Version

EPR	Infrastructure Planning (Examination Procedure) Rules 2010
ES	Environmental Statement
EU	European Union
ExA	Examining Authority
ExQ	Examining Authority's Written Questions
ExQ1	Examining Authority's First Written Questions
ExQ2	Examining Authority's Second Written Questions
ExQ3	Examining Authority's Third Written Questions
FCA	Flood Consequences Assessment
FCC	Flintshire County Council
FRA	Flood Risk Assessment
FZ	Flood Zones
GCN	Great Crested Newts
GHG	Greenhouse Gas
GWMMP	Groundwater Management and Monitoring Plan
ha	hectares
Habitats Regulations, the	The Conservation of Habitats and Species Regulations 2017
HDD	Horizontal Directional Drilling
HGV	Heavy Goods Vehicle(s)
HRA	Habitats Assessment Regulations
HRAR	Habitats Regulations Assessment Report
HSE	Health and Safety Executive
HSI	Habitat Suitability Index
IAPI	Initial Assessment of Principal Issues
IP	Interested Party/ Parties
ISH	Issue Specific Hearing
ISH1	Issue Specific Hearing into Environmental Matters
ISH2	Issue Specific Hearing in regard to the Development Consent Order

ISH3	Issue Specific Hearing in regard to the Environmental Matters and the Development Consent Order
JNCC	Joint Nature Conservation Committee
KC	King's Counsel
km	kilometre
LCA	Landscape Character Area
LDP	Local Development Plan(s)
LEMP	Landscape and Ecological Management Plan
LFoE	Liverpool Friends of the Earth
LGV	Light Goods Vehicles
LIR	Local Impact Report
LLFA	Lead Local Flood Authority
LLFA	Lead Local Flood Authority
LONI	Letter of No Impediment
LSE	Likely Significant Effects
LVIA	Landscape and Visual Impact Assessment
m	Metres
MAHP	Major Accident Hazard Pipeline
MSA	Minerals Safeguarding Area(s)
MWth	Megawatt Thermal energy
NCA	National Character Area(s)
NCLA	National Landscape Character Area(s)
NCN	National Cycle Network
NE	Natural England
NGET	National Grid Electricity Transmission PLC
NGG	National Grid Gas PLC
NH	National Highways
NO2	Nitrogen Dioxide
NPPF	National Planning Policy Framework
NPS	National Policy Statement(s)
NPS EN-1	Overarching National Policy Statement for Energy



NPS EN-4	National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines
NR	Network Rail (England and Wales)
NRSWA	the New Roads and Street Works Act
NRW	Natural Resources Wales
NSIP	Nationally Significant Infrastructure Project
OAWSI	Outline Archaeological Written Scheme Investigation
OCEMP	Outline Construction Environmental Management Plan
OCTMP	Outline Construction Traffic Management Plan
OFH	Open Floor Hearing
OLEMP	Outline Landscape and Ecological Management Plan
OPRoWMP	Outline Public Right of Way Management Plan
OSMP	Outline Soil Management Plan
PA2008	Planning Act 2008
PM	Preliminary Meeting
PoA	Point of Ayr
PP	Protective Provisions
PPW	Planning Policy Wales
ProW	Public Right(s) of Way
PSL	Protected Species License(s)
PSR	Pipelines Safety Regulations 1996
R	Requirement
RBD	River Bed Districts
rDCO	recommended Development Consent Order
REAC	Register of Environmental Actions and Commitments
RIES	Report on the Implications for European Sites
RR	Relevant Representation
s	Section
SAB	SuD's Approval Body
SAC	Special Area(s) of Conservation
SMP	Soil Management Plan
SoCG	Statement of Common Ground

SoR	Statement of Reasons
SoS	Secretary of State
SPEN	Scottish Power Energy Networks
SPP	Special Parliamentary Procedure
SRN	Strategic Road Network
SSSI	Site(s) of Special Scientific Interest
SU	Statutory Undertaker
TANs	Technical Advice Notes (Wales)
tCO <sub>2</sub> e	tonnes of CO <sub>2</sub> equivalent
TCV	Trenched Crossing Version
TP	Temporary Possession
TPP	Tree Protection Plan
UK	United Kingdom
UKOP	United Kingdom Oil Pipelines Limited
USI	Unaccompanied Site Inspection
UUW	United Utilities Water Limited
WBFGA	the Well-being of Future Generations (Wales) Act 2015
WCH	Walkers, Cyclists and Horse-riders
WFD	Water Framework Directive
WR	Written Representation

**APPENDIX D: THE RECOMMENDED DCO  
(The Embedded Pipe Bridge Version of the DCO)**

202[ ] No.

**INFRASTRUCTURE PLANNING**

**The HyNet Carbon Dioxide Pipeline Order 202[●]**

*Made* - - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* \*\*\*

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008(a) (“the 2008 Act”) for an Order granting development consent.

The application was examined by a panel of 2 members appointed by the Secretary of State (“the Panel”) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(b).

The panel, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 74(2) of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

The Secretary of State has considered the representations made and not withdrawn, and the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(c), and has had regard to the documents and matters referred to in section 105 of the 2008 Act.

In accordance with section 131(5) of the 2008 Act the Secretary of State is satisfied that where this Order authorises the compulsory acquisition of land forming part of an open space special category land that land is less than 200 square metres in extent and the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.

The Secretary of State is satisfied that open space within the Order land, when burdened with any new rights authorised for compulsory acquisition under the terms of this Order, will be no less advantageous than it was before such acquisition, to the persons whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(3) of the 2008 Act applies.

The Secretary of State, having decided the application, has determined to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120, 122, 123, 131, 132 and schedule 5 of the 2008 Act, makes the following Order:

## PART 1

### Preliminary

#### **Citation and commencement**

- 1.—(1) This Order may be cited as the HyNet Carbon Dioxide Pipeline Order 202[•]
- (2) This Order comes into force on [•] 202[•].

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(a) 2008 c.29. Section 37 was amended by section 128(2) and Schedule 13, Part 1, paragraphs 1 to 5 of the Localism Act 2011 (c.20).  
(b) S.I. 2010/103. This instrument was amended by S.I. 2012/635  
(c) S.I. 2017/572.

## Interpretation

### 2.—(1) In this order—

“1961 Act” means the Land Compensation Act 1961(a);

“1965 Act” means the Compulsory Purchase Act 1965(b);

“1980 Act” means the Highways Act 1980(c);

“1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(d);

“1984 Act” means the Road Traffic Regulation Act 1984(e);

“1990 Act” means the Town and Country Planning Act 1990(f);

“1991 Act” means the New Roads and Street Works Act 1991(g);

“2003 Act” means the Communications Act 2003(h);

“2008 Act” means the Planning Act 2008;

“address” includes any number or address used for the purposes of electronic transmission;

“access and rights of way plans” means the plans certified as such by the Secretary of State for the purposes of this Order;

“AGI” means above ground installation, being a secure compound above ground level containing equipment relating to the pipeline which is necessary for its operation and/or maintenance. The AGIs include PIG facilities, ancillary infrastructure (including lighting and parking provisions), and electrical and instrumentation kiosks;

“ancillary works” means the ancillary works described in Part 2 of Schedule 1 (ancillary works) and any other works authorised by this Order that are not development within the meaning of section 32 of the 2008 Act;

“apparatus” has the same meaning as in section 105(1) of the 1991 Act;

“authorised development” means the development described in Parts 1 and 2 of Schedule 1 (authorised development) and any other development authorised by this Order that is development within the meaning of section 32 of the 2008 Act;

“bank holiday” means a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(i);

“block valve” means an intermediate underground valve which can rapidly stem the flow of the carbon dioxide;

“book of reference” means the document certified as such by the Secretary of State as the book of reference for the purposes of the Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“business day” means a day other than a Saturday or Sunday, Good Friday, Christmas Day or a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971;

“BVS” means block valve station, being a secure compound above ground level containing equipment relating to the pipeline which is necessary for its operation and/or maintenance. The BVSs include a block valve, ancillary infrastructure (including lighting, parking provisions), and above ground electrical and instrumentation kiosks;

“carriageway” has the same meaning as in the 1980 Act;

---

(a) 1961 c33.  
(b) 1965 c56.  
(c) 1980 c66.  
(d) 1981 c66.  
(e) 1984 c.27.  
(f) 1990 c.8.  
(g) 1991 c.22.  
(h) 2003 c21.  
(i) 1971 c80



“CEMP” means the construction environmental management plan, including all of its appendices, to be approved under the requirements;

“chief officer of police” means the chief officer of police of the police area in which a power under this Order is sought to be exercised;

“commence” means carry out a material operation, as defined in section 155 of the 2008 Act (which explains when development begins), comprised in or for the purposes of the authorised development other than site preparation works, remediation works, environmental (including archaeological) surveys and investigation, site, utility or soil survey, erection of temporary fencing to site boundaries or marking out of site boundaries, installation of temporary amphibian and reptile fencing, the diversion or laying of services or environmental mitigation measures and any such temporary accesses that may be required in association with these, and “commencement”, “commenced” and cognate expressions are to be construed accordingly;

“crown land plans” means the document certified as the crown land plans by the Secretary of State for the purposes of this Order;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

and in this definition “electronic communications network” has the same meaning as in section 32(1) (meaning of electronic communications networks and services) of the 2003 Act;

“environmental statement” means the document certified by the Secretary of State as the environmental statement for the purposes of this Order;

“existing pipeline” means the existing natural gas pipeline, constructed in accordance with a pipeline construction authorisation and deemed planning permission issued by the Secretary of State on 16 December 1993 under the Pipelines Act 1962 for “a 24 inch natural gas cross-country pipeline from Point of Ayr to Connah’s Quay”, which pipeline is to be repurposed under this Order and along which Work Nos. 51, 53 and 55 are to be constructed;

“general arrangement plans” means the Block Valve Stations Planning Arrangement, Block Valve Stations Elevations, Above Ground Installation Planning Arrangement and Above Ground Installation Elevations certified by the Secretary of State as the general arrangement plans for the purposes of this Order;

“highway authority” means in any given provision of this Order (including the requirements), the highway authority for the highway to which the provision relates;

“land plans” means the document certified as such by the Secretary of State for the purposes of this Order;

“limits of deviation” means the limits of deviation referred to in article 6 (limits of deviation) and shown on the works plans;

“maintain” includes inspect, assess, repair, test, cleanse, adjust, landscape, preserve, make safe, divert or alter the authorised development, and remove, clear, reconstruct, re-new, re-lay, re-furbish, improve, replace, dismantle, demolish, abandon or decommission any part of the authorised development, but must not include the renewal, re-laying, reconstruction or replacement of the entirety of the new pipeline; and any derivative of “maintain” is to be construed accordingly;

“new pipeline” means the pipeline to be constructed and operated as part of the authorised development forming Work Nos. 1, 4, 5, 6, 7, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48 and 50;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

“Order limits” means the limits shown on the works plans within which the authorised development may be carried out;

“outline archaeological written scheme of investigation” means the document certified as such by the Secretary of State for the purposes of this Order;

“outline construction environment management plan” means the document certified as such by the Secretary of State for the purposes of this Order;

“outline construction traffic management plan” means the document certified as such by the Secretary of State for the purposes of this Order;

“outline landscape and ecology management plan” means the document certified as such by the Secretary of State for the purposes of this Order;

“outline operational and maintenance environmental management plan” means the document certified as such by the Secretary of State for the purposes of this Order

“outline surface water drainage strategy report and appendices” means the document certified as such by the Secretary of State for the purposes of this Order;

“PIG” means pipeline inspection gauge, a device used for internal maintenance, cleaning and monitoring of a pipeline;

“pipeline” means the existing pipeline and the new pipeline and includes all of the authorised development including all AGIs and BVSs;

“relevant planning authority” means in any given provision of this Order (including the requirements), the local planning authority—

(a) for the area of land to which the provision relates is situated; and

(b) with the relevant legislative competence under the 1990 Act for the matter to which that provision relates;

“requirements” means those matters set out in Schedule 2 (Requirements) to this Order and a reference to a numbered requirement is a reference to the requirement imposed by the corresponding numbered paragraph of that Schedule;

“special category land plans” means the document certified as such by the Secretary of State for the purposes of this Order;

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act and a public communications provider as defined in section 151 of the 2003 Act;

“street” means a street within the meaning of section 48 of the 1991 Act(a), together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act(b);

“traffic authority” has the same meaning as in the 1984 Act;

“trenchless installation techniques” means the installation of the new pipeline and/or associated telecommunications cabling by means of boring techniques including horizontal directional drilling, auger boring and micro-tunnelling;

“tribunal” means the Lands Chamber of the Upper Tribunal;

“undertaker” means Liverpool Bay CCS limited, incorporated under company number 13194018 and having its registered office at Eni House, 10 Ebury Bridge Road, London SW1W 8PZ; and

“works plans” means the plan or plans certified as such by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

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(a) Section 48 was amended by section 124 (1) and (2) of the Local Transport Act 2008 (c.26).

(b) “Street authority” is defined in section 49, which was amended by section 1(6) and paragraphs 113 and 117 of Schedule 1 to the Infrastructure Act 2015.

(3) All distances, directions, areas and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the relevant plans.

(6) References in this Order to numbered works are references to the works as numbered in Part 1 of Schedule 1 (authorised development).

(7) References to any statutory body includes that body's successor bodies from time to time that have jurisdiction over the authorised development.

(8) In this Order, the expression "includes" is to be construed without limitation.

## PART 2

### Principal Powers

#### **Development consent etc. granted by the Order**

3.—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted—

- (a) development consent for the authorised development; and
- (b) consent for the ancillary works,

to be carried out within the Order limits.

#### **Operation and use of the authorised development**

4.—(1) The undertaker may at any time operate and use the authorised development and the existing pipeline except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) Subject to the provisions of this Order the undertaker is granted consent to use the existing pipeline for the conveyance of carbon dioxide.

(3) The consent granted under paragraphs (1) and (2) does not relieve the undertaker from compliance with any obligation under the Pipeline Safety Regulations 1996(a).

#### **Power to maintain the authorised development**

5.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) Paragraph (1) does not authorise diversion of the authorised development—

- (a) outside the limits of deviation; or
- (b) which would result in the authorised development varying from the description in Part 1 of Schedule 1 (authorised development).

#### **Limits of deviation**

6.—(1) In carrying out or maintaining the authorised development, the undertaker may—

- (a) deviate the works laterally within the extent of the limits of deviation for those works shown on the works plans;

- (b) deviate the pipeline works vertically upwards to a limit of not less than 1.2 metres below the surface of the ground (except where ground conditions make compliance with this upwards limit impracticable in which case the upwards limit is 0.452 metres below the surface of the ground);
- (c) in respect of those sections of the pipeline works which may be constructed and installed using trenchless installation techniques, deviate the pipeline works vertically downwards to such extent as may be found necessary or convenient subject to a maximum depth of 35m;
- (d) deviate works other than the pipeline vertically—
  - (i) upwards or above ground level to the height limits set for those works in Schedule 2 (requirements); and
  - (ii) downwards to any extent as may be found necessary or convenient.

(2) The maximum limits of vertical deviation specified in paragraph (1)(b) do not apply within Work No 43E.

(3) The maximum limits of vertical deviation specified in paragraphs (1)(b), (c) and (d) do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects to those identified in the environmental statement.

### **Benefit of the Order**

7.—(1) Subject to this article, the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Subject to paragraph (3), the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; and
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (2) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

### **Application and modification of legislative provisions**

8.—(1) The following enactments do not apply in relation to the construction of any work or the carrying out of any operation for the purpose of or in connection with, the construction of the authorised development or any maintenance of any part of the authorised development —

- (a) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw making powers of the authority) to the Water Resources Act 1991(a);

---

(a) 1991 c. 57. Paragraph 5 was amended by section 100(1) and (2) of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84 of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009 (c. 23), paragraphs 40 and 49 of Schedule 25 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755. Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995 (c. 25), section 224 of, and paragraphs 20 and 24 of Schedule 16, and Part 5(B) of Schedule 22, to, the l.l. and Coastal Access Act 2009 and S.I. 2013/755. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

- (b) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991(a);
- (c) sections 23 (prohibition on obstructions etc. in watercourses) and 30 (authorisation of drainage works in connection with a ditch) of the Land Drainage Act 1991(b); and
- (d) the provisions of the Neighbourhood Planning Act 2017(c) in so far as they relate to the temporary possession of land under articles 35 (temporary use of land for carrying out the authorised development) and 36 (temporary use of land for maintaining the authorised development).

(2) Notwithstanding the provisions of section 208 of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010(b) any building comprised in the authorised development must be deemed to be—

- (a) a building into which people do not normally go; or
- (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

### **Defence to proceedings in respect of statutory nuisance**

**9.**—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraphs (g) (noise emitted from premises so as to be prejudicial to health or a nuisance) and (ga) (noise that is prejudicial to health or nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road) of section 79(1) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974; or
  - (ii) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development;
  - (iii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
  - (iv) is a consequence of complying with a requirement of this Order and that it cannot reasonably be avoided; or
  - (v) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably avoided.

(2) For the purposes of paragraph (1) above, compliance with the controls and measures relating to noise described in the CEMP will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.

(3) Where a relevant planning authority is acting in accordance with section 60(4) and section 61(4) of the Control of Pollution Act 1974 in relation to the construction of the authorised development then the local authority must also have regard to the controls and measures relating to noise referred to in the CEMP approved under Schedule 2 (Requirements).

(4) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of

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(a) 1991 c.59 Section 66 is as substituted by section 31 of, and paragraphs 25 and 38 of Schedule 2 to the Water Management Act 2010 (c.29) and section 86(1) and (3) of the Water Act 2014 (c.21).  
 (b) 1991 c. 59  
 (c) 2017 c.20

premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

(5) In this article “premises” has the same meaning as in section 79 of the Environmental Protection Act 1990(a).

## PART 3

### Streets

#### Street works

**10.**—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Part 1 (streets subject to permanent street works) and Part 2 (streets subject to temporary street works) of Schedule 3 as is within the Order limits and may without the consent of the street authority—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street or carry out works to strengthen or repair the carriageway;
- (c) remove or use all earth and materials in or under the street;
- (d) place apparatus under the street;
- (e) maintain, alter or renew apparatus under the street or change its position;
- (f) demolish, remove, replace and relocate any street furniture within the street;
- (g) execute any works to provide or improve sight lines;
- (h) execute and maintain any works to provide hard and soft landscaping;
- (i) carry out re-lining and placement of road markings;
- (j) remove and install temporary and permanent signage; and
- (k) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (j).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Without limiting the scope of the powers conferred by paragraph (1) but subject to paragraph (4), the undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter on so much of any other street whether or not within the Order limits, for the purposes of carrying out the works set out in paragraph (1).

(4) The powers conferred by paragraph (3) must not be exercised without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent is not to be unreasonably withheld or delayed.

(5) If a street authority that receives an application for consent under paragraph (4) fails to notify the undertaker of its decision within 42 days beginning with the date on which the application was received by that street authority, that authority will be deemed to have granted consent.

(6) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act save that “apparatus” includes pipelines (and parts thereof), fibre optic or other telecommunication cables, aerial markers, cathodic protection test posts, field boundary markers, monitoring kiosks, and electricity cabinets.

#### Power to alter layout, etc. of streets

**11.**—(1) The undertaker may for the purposes of carrying out the authorised development temporarily alter the layout of, or carry out any works in, a street specified in column (2) of Part 2

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(a) 1990 c.43.

of Schedule 3 (streets subject to temporary street works) in the manner specified in relation to that street in column (3).

(2) Without limitation on the specific powers conferred by paragraph (1), but subject to paragraph (4), the undertaker may, for the purposes of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street (and carry out works ancillary to such alterations) whether or not within the Order limits and the layout of any street having a junction with such a street and, without limiting the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any footpath, footway, cycle track, central reservation or verge within the street;
- (b) alter the level or increase the width of any such street, footpath, footway, cycle track, central reservation or verge;
- (c) reduce the width of the carriageway of the street;
- (d) execute any works to widen or alter the alignment of pavements;
- (e) make and maintain crossovers and passing places;
- (f) execute any works of surfacing or resurfacing of the highway;
- (g) carry out works for the provision or alteration of parking places, loading bays and cycle tracks;
- (h) execute any works necessary to alter or provide facilities for the management and protection of pedestrians;
- (i) execute any works to provide or improve sight lines required by the highway authority;
- (j) execute and maintain any works to provide hard and soft landscaping;
- (k) carry out re-lining and placement of new temporary markings; and
- (l) remove and replace kerbs and flume ditches for the purposes of creating permanent and temporary accesses

(3) The undertaker must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article.

(4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent is not to be unreasonably withheld or delayed.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

### **Application of the 1991 Act**

**12.—**(1) The provisions of the 1991 Act mentioned in paragraph (2) that apply in relation to the carrying out of street works under that Act and any regulations made or code of practice issued or approved under those provisions apply (with all necessary modifications) in relation to—

- (a) the carrying out of works under articles 10 (street works) and 11 (power to alter layout etc. of streets);
- (b) the temporary restriction, temporary alteration or temporary diversion of a public right of way by the undertaker under article 13 (temporary restriction of public rights of way); and
- (c) the temporary restriction, temporary alteration or temporary diversion of a street by the undertaker under article 15 (temporary restriction of use of streets);

whether or not the carrying out of the works or the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(2) The provisions of the 1991 Act<sup>(a)</sup> are—

- (a) subject to paragraph (3), section 55 (notice of starting date of works);

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(a) Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004 (c.18)

- (b) section 57 (notice of emergency works);
- (c) section 60 (general duty of undertakers to co-operate);
- (d) section 68 (facilities to be afforded to street authority);
- (e) section 69 (works likely to affect other apparatus in the street);
- (f) section 76 (liability for cost of temporary traffic regulation);
- (g) section 77 (liability for cost of use of alternative route); and
- (h) all provisions of that Act that apply for the purposes of the provisions referred to in subparagraphs(a) to (g).

(3) Section 55 of the 1991 Act as applied by paragraph (2) has effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(4) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

- (a) section 56(d) (power to give directions as to timing of street works);
- (b) section 56AI (power to give directions as to placing of apparatus);
- (c) section 58(f) (restriction on works following substantial road works);
- (d) section 58A(g) (restriction on works following substantial street works); and
- (e) schedule 3A(h) (restriction on works following substantial street works).

### **Temporary restriction of public rights of way**

**13.—**(1) The undertaker may, in connection with the carrying out of the authorised development, temporarily restrict, prevent use of or stop up each of the public rights of way specified in column (2) of Part 1 of Schedule 6 (public rights of way to be temporarily restricted) to the extent specified in column (3), by reference to the numbered points shown on the access and rights of way plans.

(2) The public rights of way specified in Part 1 of Schedule 6 (public rights of way to be temporarily restricted) may not be temporarily stopped up under this article unless an alternative public right of way is first provided by the undertaker to the reasonable satisfaction of the relevant local highway authority.

(3) The relevant diversion route provided under paragraph (2) will be subsequently maintained by the undertaker until the re-opening of the relevant public right of way specified in paragraph (1).

(4) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) If a street authority which receives an application for confirmation that an alternative public right of way is satisfactory under paragraph (2) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

### **Stopping up of public rights of way**

**14.**(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of public rights of way specified in columns (1) and (2) of Part 2 of Schedule 6 (public rights of way to be stopped up) to the extent specified in column (3).

(2) No public right of way may be stopped up under this article until a temporary alternative route for the passage of such traffic as could have used the public right of way has been provided and subsequently maintained by the undertaker until a permanent alternative has been provided and open to public use, which temporary alternative route must be provided to the reasonable satisfaction of the local highway authority, between the points specified in column (4) of Part 2 of schedule 6.



(3) No later than 3 months from the completion of the authorised development, the undertaker must provide a permanent alternative route for any route stopped up under this article, which permanent alternative route must be provided between the points specified in column (4) of Part 2 of schedule 6 to the reasonable satisfaction of the local highway authority.

### **Temporary restriction of use of streets**

**15.**—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic or a class of traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limiting paragraph (1), the undertaker may use any street temporarily stopped up under the powers conferred by this article within the Order limits as a temporary working site.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) Without limiting paragraph (1), the undertaker may temporarily stop up, alter or divert the streets set out in column (2) of Schedule 5 (streets to be temporarily stopped up or restricted) to the extent specified, by reference to the letters and numbers shown on the access and rights of way plans, in column (3) of that Schedule.

(5) The undertaker must not temporarily stop up, alter, divert or use as a temporary working site, any street other than those referred to in Schedules 5 (streets to be temporarily stopped up or restricted); and 6 (public rights of way to be temporarily restricted) without the consent of the street authority, which may attach reasonable conditions to the consent but such consent is not to be unreasonably withheld or delayed.

(6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) If a street authority which receives an application for consent under paragraph (5) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

### **Access to works**

**16.**—(1) The undertaker may, for the purposes of the authorised development, form and lay out means of access, or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) Subject to paragraph (3), the power set out in paragraph (1) may not be exercised without the undertaker having first obtained the consent of the street authority which may attach reasonable conditions to any consent, but such consent is not to be unreasonably withheld or delayed, following consultation by the street authority with the relevant planning authority. If the street authority which has received an application for consent under this paragraph fails to notify the undertaker of its decision before the end of the 42 day period beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

(3) The consent of the street authority is not required for the formulation, laying out or improvement of a new or existing means of access as described in Part 1 of Schedule 1 (authorised development) and Schedule 4 (new means of access).

### **Agreements with street authorities**

**17.**—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street including any structure carrying the street over or under any part of the authorised development;

- (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
  - (c) any stopping up, alteration or diversion of a street authorised by this Order; or
  - (d) the carrying out in the street of any of the works referred to in article 10 (street works).
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
  - (b) include an agreement between the undertaker and street authority specifying a reasonable time for completion of the works; and
  - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

### **Use of private roads**

**18.**—(1) Subject to paragraphs (2), (3) and (4), the undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction and maintenance of the authorised development.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may only use a private road under paragraph (1) for such time as the power to take temporary possession of the land upon which it is located under either article 35 (temporary use of land for carrying out the authorised development) and article 36 (temporary use of land for maintaining the authorised development) is capable of being exercised under those articles in relation to that land.

### **Traffic regulation**

**19.**—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which may attach reasonable conditions to any consent but which consent must not be unreasonably withheld or delayed, the undertaker may at any time, for the purposes of, or in connection with, the construction of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,  
either at all times or at times, on days or during such periods as may be specified by the undertaker.

(2) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (3).

(3) The undertaker must not exercise the powers conferred by paragraph (1) unless it has—

- (a) given not less than 42 days' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and

- (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker's intention as provided for in sub-paragraph (a).
- (4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1)—
- (a) has effect as if duly made by, as the case may be—
- (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
- (ii) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking spaces) of the 1984 Act, and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and
- (b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(a).
- (5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of paragraph (1) within a period of 24 months from the commencement of operation of the authorised development.
- (6) Before exercising the powers conferred by paragraph (1), the undertaker must consult such persons as it considers necessary and appropriate and must take into consideration any representations made to it by any such person.
- (7) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.
- (8) If the traffic authority fails to notify the undertaker of its decision within 42 days of receiving an application for consent under paragraph (1) the traffic authority is deemed to have granted consent.
- (9) The power conferred by paragraph (1) may be exercised at any time prior to the expiry of 12 months from the commencement of operation of the authorised development but subject to paragraph (5) any prohibition, restriction or other provision made under paragraph (1) may have effect both before and after the expiry of that period.

## PART 4

### Supplemental powers

#### **Discharge of water**

**20.**—(1) Subject to paragraphs (3) and (4) below the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may inspect, lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or by the undertaker pursuant to paragraph (1) is determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(b).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld or delayed.

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(a) 2004 c.18.

(b) 1991 c.56. Section 106 was amended by sections 43(2) and 35(8)(a) and paragraph 1 of Schedule 2 to the Competition and Service (Utilities) Act 1992 (c.43) and sections 99(2), (4), (5)(a), (5)(b), (5)(c) and 36(2) of the Water Act 2003 (c.37) and section 32, Schedule 3, paragraph 16(1) of the Flood and Water Management Act 2010 c.29.

(4) The undertaker must not carry out any works to any public sewer or drain pursuant to paragraph (1) except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of, or construct any works within any watercourse forming part of a main river, or within 16 metres of a tidally influenced main river without the prior written consent of the Environment Agency or Natural Resources Wales as appropriate.

(6) The undertaker must, unless otherwise authorised under the provisions of this Order or any environmental permit relating to the discharge of water in connection with the authorised development, take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(a).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, Natural Resources Wales, an internal drainage board or a local authority; and
- (b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2016 have the same meaning as in those Regulations.

(9) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

### **Maintenance of drainage works**

**21.**—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(b).

### **Authority to survey and investigate the land**

**22.**—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes or pits in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out environmental, utility or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

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(a) S.I. 2016/1154.

(b) 1991 c.59.

(2) The power conferred by sub-paragraph (1)(c) includes without prejudice to the generality of that sub-paragraph the power to take, and process, samples of or from any of the following found on, in or over the land—

- (a) water;
- (b) air;
- (c) soil or rock;
- (d) its flora;
- (e) bodily excretions, or dead bodies, of non-human creatures; or
- (f) any non-living thing present as a result of human action.

(3) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

(4) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes or pits.

(5) No trial holes or pits are to be made under this article—

- (a) in land located within the highway boundary without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority,  
which authority may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld or delayed

(6) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, as if it were a dispute under Part 1 (determination of question of disputed compensation) of the 1961 Act.

(7) If either a highway authority or a street authority which receives an application for consent under paragraph (5) fails to notify the undertaker of its decision within 28 days of receiving the application for consent, that authority is deemed to have granted consent.

(8) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

### **Protective work to buildings**

**23.—**(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development first becomes operational.

(3) For the purpose of determining how the powers under this article are to be exercised, the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage, and place on, leave on and remove from building any apparatus and equipment for use in connected with the survey.

(4) For the purpose of carrying out protective works to a building under this article, the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land that is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a power under paragraph (1) to carry out protective works to a building;
- (b) a power under paragraph (3) to enter a building and land within its curtilage;
- (c) a power under sub-paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a power under sub-paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise the power and, in a case falling within sub-paragraph (a), (c) or (d), specifying the protective works proposed to be carried out.

(6) Where a notice is served under sub-paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question of whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 49 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which powers under this article have been exercised for any loss or damage arising to them by reason of the exercise of the powers.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building first becomes operational it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act.

(10) Any compensation payable under paragraph (7) or (8) must be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies in respect of the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article “protective works”, in relation to a building, means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage that has been caused to the building by the carrying out, maintenance or use of the authorised development.

## **Removal of human remains**

24.—(1) Before the undertaker carries out any development or works which will or may disturb any human remains in the Order land it must remove those human remains from the Order land, or cause them to be removed, in accordance with the following provisions of this article.

(2) Before any such remains are removed from the Order land the undertaker must give notice of the intended removal, describing the Order land, the location where the remains were found and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of 2 successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near to the Order land and in the vicinity of the location where the remains were found.

(3) As soon as reasonably practicable after the first publication of a notice under paragraph (2) the undertaker must send a copy of the notice to the relevant planning authority.

(4) At any time within 56 days after the first publication of a notice under paragraph (2) any person who is a personal representative or relative of any deceased person whose remains are interred in the specific land may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(5) Where a person has given notice under paragraph (4), and the remains in question can be identified, that person may cause such remains to be;

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (10).

(6) If the undertaker is not satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in summary manner by the county court, and the court may make an order specifying who is to remove the remains and as to the payment of the costs of the application.

(7) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(8) If—

- (a) within the period of 56 days referred to in paragraph (4) no notice under that paragraph has been given to the undertaker in respect of any remains in the Order land; or
- (b) such notice is given and no application is made under paragraph (6) within 56 days after the giving of the notice but the person who has received the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (6) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice under paragraph (4) relates cannot be identified,

subject to paragraph (9), the undertaker must remove the remains and cause them to be re-interred in such burial ground, or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose and, so far as possible, remains from individual graves must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(9) If the undertaker is satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any

reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(10) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (8) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (3).

(11) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(12) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(13) Section 25 (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) of the Burial Act 1857(a) is not to apply to a removal carried out in accordance with this article.

## PART 5

### Powers of Acquisition

#### Compulsory acquisition of land

**25.**—(1) The undertaker may acquire compulsorily so much of the Order land as is required to carry out or to facilitate, or is incidental to, the authorised development.

(2) This article is subject to paragraph (2) of article 27 (compulsory acquisition of rights and restrictive covenants) and paragraph (8) of article 35 (temporary use of land for carrying out the authorised development).

#### Time limit for exercise of authority to acquire land compulsorily

**26.**—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act(b) as applied by article 31 (application of the 1981 Act).

(2) The authority conferred by article 35 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

#### Compulsory acquisition of rights and restrictive covenants

**27.**—(1) The undertaker may acquire such rights over the Order land or impose restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under article 25 (compulsory acquisition of land), by creating them as well as acquiring rights already in existence.

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(a) 1857 c.81.

(b) Section 4 was amended by sections 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016 (c.22).



(2) Subject to articles 30 (private rights) and 37 (statutory undertakers) in the case of the Order land specified in column (1) of Schedule 8 (land in which only new rights etc., may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of new rights in the land or the imposition of restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 4(8) of Schedule 9 (modification of compensation and compulsory purchase enactments for creation of new rights)), where the undertaker acquires a right over land or the benefit of a restrictive covenant, the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 9 (modification of compensation and compulsory purchase enactments for creation of new rights) has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(5) In any case where the acquisition of new rights or the imposition of restrictive covenants under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

### **Statutory authority to override easements and other rights**

**28.**—(1) The carrying out or use of the authorised development and the doing of anything else authorised by this Order is authorised for the purpose specified in section 158(2) of the 2008 Act (nuisance: statutory authority), despite it involving—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to use of land arising by virtue of contract.

(2) The undertaker must pay compensation to any person whose land is injuriously affected by—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to use of land arising by virtue of contract, caused by the carrying out or use of the authorised development and the operation of section 158 of the 2008 Act.

(3) The interests and rights to which this article applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(4) Subsection (2) of section 10 of the 1965 Act (further provision as to compensation for injurious affection) applies to paragraph (2) by virtue of section 152(5) of the 2008 Act (compensation in case where no right to claim in nuisance).

(5) Any rule or principle applied to the construction of section 10 of the 1965 Act must be applied to the construction of paragraph (2) with any necessary modifications

### **Compulsory acquisition of land: minerals**

**29.** Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981 are incorporated in this Order, subject to the following modifications—

- (a) paragraph 8(3) is not incorporated;
- (b) for “acquiring authority” substitute “undertaker”;
- (c) for “undertaking” substitute “authorised development”; and
- (d) for “compulsory purchase order” substitute “this Order”.

## Private rights

**30.**—(1) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition under article 25 (compulsory acquisition of land) cease to have effect in so far as their continuance would be inconsistent with the exercise of the powers under article 25 —

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act (a)

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 27 (compulsory acquisition of rights and restrictive covenants) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

- (a) as from the date of the acquisition of the right or the imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of lease of the land by agreement); or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 37 (statutory undertakers) applies.

(6) Paragraphs (1) to (3) have effect subject to—

- (a) any notice given by the undertaker before—
  - (i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;
  - (ii) the undertaker's appropriation of the land,
  - (iii) the undertaker's entry onto the land, or
  - (iv) the undertaker taking temporary possession of the land,that any or all of those paragraphs do not apply to any right specified in the notice; or
- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(7) If an agreement referred to in sub-paragraph (6)(b)—

- (a) is made with a person in or to whom the right is vested or belongs; and

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(a) Section 11(1) was amended by sections 186 to 188 of the Housing and Planning Act 2016 (c.22), Schedule 4 to the Acquisition of Land Act 1981 (c.67) a

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

the agreement is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(8) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

### **Application of the 1981 Act**

**31.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied, has effect with the following modifications.

(3) In section 1 (application of Act) for subsection (2) substitute—

“This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”

(4) Omit section 5 (earliest date for execution of declaration).

(5) Omit section 5A (time limit for general vesting declaration).

(6) In section 5B(1) (extension of time limit during challenge)—

(a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)”; and

(b) for “the three year period mentioned in section 5A” substitute “the five year period mentioned in article 26 (time limit for exercise of authority to acquire land compulsorily) of the HyNet Carbon Dioxide Pipeline Order 202[•]”.

(7) In section 6 (notices after execution of declaration) for subsection (1)(b) substitute—

“(1) (b) on every other person who has given information to the acquiring authority with respect to any of that land further to the invitation published and served under section 134 of the Planning Act 2008.”.

(8) In section 7 (constructive notice to treat) in subsection (1)(a) omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).

(10) References to the 1965 Act in the 1981 Act are to be constructed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act and as modified by article 33 (modification of Part 1 of the 1965 Act) to the compulsory acquisition of the land under this Order.

### **Acquisition of subsoil or airspace only**

**32.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil or airspace of the land referred to in paragraph (1) of article 25 (compulsory acquisition of land) and paragraph (1) of article 27 (compulsory acquisition of rights and restrictive covenants) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in the subsoil or airspace of land under paragraph (1), the undertaker is not to be required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 33 or paragraph 4(8) of Schedule 9 as the case may be) from applying where the undertaker acquires any part of, or rights in a cellar, vault, arch or other construction forming part of a house, building or manufactory.

(4) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A to the 1965 Act (as modified by article 33 (modification of Part 1 of the 1965 Act));
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

### **Modification of Part 1 of the 1965 Act**

**33.**—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge) for “section 23 (application to High Court in respect of compulsory purchase order) of the Acquisition of Land Act 1981, the three year period mentioned in section 4” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the 2008 Act, the 5 year period mentioned in article 26 (time limit for exercise of authority to acquire land compulsorily) of The HyNet Carbon Dioxide Pipeline Order 202[●]”.

(3) In section 11A (powers of entry: further notice of entry)—

- (a) in subsection (1)(a), after “land” insert “under that provision”;
- (b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (interests omitted from purchase), for “section 4 of this Act” substitute “article 26 (time limit for exercise of authority to acquire land compulsorily) of The HyNet Carbon Dioxide Pipeline Order 202[●]”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat) —

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 32(3) (acquisition of subsoil or airspace only) of The HyNet Carbon Dioxide Pipeline Order 202[●] which excludes the acquisition of subsoil only from this Schedule”; and

(b) at the end insert—

## **“Part 4**

### **INTERPRETATION**

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 23 (protective work to buildings), article 35 (temporary use of land for carrying out the authorised development) or article 36 (temporary use of land for maintaining the authorised development) of The HyNet Carbon Dioxide Pipeline Order 202[●]”.

### **Rights under or over streets**

**34.**—(1) The undertaker may enter on and appropriate so much of the subsoil of or air-space over any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to

- (a) any subway or underground building; or

- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

### **Temporary use of land for carrying out the authorised development**

**35.**—(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 26 (time limit for exercise of authority to acquire land compulsorily)—

- (a) enter on and take temporary possession of—
  - (i) the land specified in columns (1) and (2) of Part 1 of Schedule 7 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule;
  - (ii) the land specified in columns (1) and (2) of Part 2 Schedule 7 (land of which only temporary possession for access may be taken) for the purposes of taking access to and from the authorised development only; and
  - (iii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;
- (c) construct temporary works (including the provision of means of access), structures and buildings on that land;
- (d) use the land for the purposes of a working site with access to the working site in connection with the authorised development;
- (e) construct any permanent works specified in relation to that land in column (4) of Part 1 of Schedule 7 (land of which only temporary possession may be taken), or any other mitigation works in connection with the authorised development;
- (f) construct any works, or use the land, as specified in relation to that land in column 3 of Parts 1 and 2 of Schedule 7, or any mitigation works;
- (g) construct such works on that land as are mentioned in Part 1 of Schedule 1 (authorised development); and
- (h) carry out mitigation works required pursuant to the requirements in Schedule 2.

(2) Not less than 3 months before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(iii).

(3) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i) and (ii), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Parts 1 and 2 of Schedule 7 (land of which only temporary possession may be taken); or

- (b) in the case of any land referred to in paragraph (1)(a)(iii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building, or structure removed under this article;
- (b) remove any drainage works installed by the undertaker under this article;
- (c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 3 (streets subject to streets works)
- (d) restore the land on which any permanent works (including ground strengthening works) have been constructed under paragraph (1); or
- (e) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) and (ii) except that the undertaker is not to be precluded from acquiring new rights over any part of that land under article 27 (compulsory acquisition of rights and restrictive covenants).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13(a) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) Paragraph (1) does not authorise the undertaker to take temporary possession of any land which the undertaker is not authorised to acquire under article 25 (compulsory acquisition of land) or article 27 (compulsory acquisition of rights and restrictive covenants).

### **Temporary use of land for maintaining the authorised development**

**36.—**(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order land if such possession is reasonably required for the purpose of maintaining the authorised development; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article “the maintenance period”, in relation to any part of the authorised development means the period following completion of that part of the authorised development until the commencement of decommissioning.

(12) The undertaker is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of—

- (a) the authorised development or any of its parts;
- (b) the public; or
- (c) the surrounding environment,

and in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such period of notice as is reasonably practicable in the circumstances.

### **Statutory undertakers**

**37.—**(1) Subject to the provisions of Schedule 10 (protective provisions), the undertaker may acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the Order land and described in the book of reference.

(2) Subject to the provisions of Schedule 10 (protective provisions), the undertaker may extinguish the rights of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

### **Recovery of costs of new connections**

**38.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 37 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 37 (statutory undertakers), any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the 2003 Act<sup>(a)</sup>; and

“public utility undertaker” has the same meaning as in the 1980 Act.

## **PART 6**

### **Miscellaneous and general**

#### **Application of landlord and tenant law**

**39.**—(1) This article applies to any agreement entered into by the undertaker under article 7 (benefit of the Order) so far as it relates to the terms on which any land is subject to a lease granted by or under that agreement.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) No enactment or rule of law to which paragraph (2) applies is to apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

#### **Felling or lopping of trees and removal of hedgerows**

**40.**—(1) Subject to paragraph (3) the undertaker may fell, lop or prune any tree or shrub, or cut back its roots, within or overhanging land within the Order limits if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

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(a) 2003 c.21.



- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must—

- (a) do no unnecessary damage to any tree or shrub; and
- (b) pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits including those specified in Schedule 11.

In this article “hedgerow” has the same meaning as in the Hedgerows Regulations 1997(a).

### **Trees subject to Tree Preservation Orders**

**41.**—(1) The undertaker may fell, lop or prune any part of any tree which is within, over or under land within the Order limits or cut back its roots, if it reasonably believes it to be necessary in order to prevent the tree—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any damage arising from such activity; and
- (b) the duty in section 206(1) of the 1990 Act (replacement of trees) must not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined as if it were a dispute under Part 1 of the 1961 Act.

### **Crown rights**

**42.**—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

### **Protective provisions**

**43.** Schedule 10 (protective provisions) has effect.

### **Operational land for the purposes of the 1990 Act**

**44.** Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is not to be treated as operational land) of the 1990 Act.

### **Certification of plans, etc.**

**45.—**(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the access and rights of way plans (consisting of a key plan and sheets 1 to 37 inclusive) (document number D.2.5)
- (b) the land plans (consisting of a key plan and sheets 1 to 37 inclusive) (document number D.2.2);
- (c) the crown land plans (consisting of a key plan and 8 sheets) (document number D.2.3);
- (d) the special category land plans (consisting of a key plan and 10 sheets) (document number D.2.6);
- (e) the works plans (consisting of a key plan and sheets 1 to 37 inclusive) (document number D.2.4);
- (f) the general arrangement plans comprising the Block Valve Stations Planning Arrangement, (document number D 2.9); Block Valve Stations Elevations (document number D.2.8); Above Ground Installation Planning Arrangement (document number D.2.12), and Above Ground Installation Elevations (document number D.2.11);
- (g) the book of reference (document number D.4.3);
- (h) the environmental statement (consisting of 4 volumes) (document numbers D.6.1 to D.6.4.19.1);
- (i) the outline construction environment management plan (document number D.6.5.2);
- (j) the outline landscape and ecology mitigation plan (document number D.6.5.10) (Annex D.6.5.10.1 Environmental Report – Appendix A – Landscape and Ecological Mitigation Plan);
- (k) the outline construction traffic management plan (document number D.6.5.3);
- (l) the outline surface water drainage strategy report and appendices (document number D.6.5.13);
- (m) the outline archaeological written scheme of investigation, (document number D.6.5.2);
- (n) outline operational and maintenance environment management plan (document number D.7.15); and

any other plans or documents referred to in this Order as requiring certification, for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

### **Service of notices**

**46.—**(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (2) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

## **No double recovery**

**47.** Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

## **Requirements, appeals, etc.**

**48.**—(1) Sub-section (1) of section 78 (right to appeal against planning decisions and failure to take such decision) of the 1990 Act applies to the development consent granted by this Order and to the requirements except that it is modified so as to read for the purposes of this Order only as follows—

(a) after “local planning authority” insert “or Secretary of State”

(b) after subsection (b) insert the following—

“refuse or fails to determine an application for any consent, agreement or approval of that authority required by a requirement imposed on a grant of development consent or contained in a development consent order, or grant it subject to conditions; or”

(c) after Sub-section (1), insert the following—

“(1A) Where the appeal under sub-section (1) relates to a decision by the Secretary of State, the appeal will be decided by a Secretary of State who would not be responsible for determining an application for development consent with the subject matter of The HyNet Carbon Dioxide Pipeline Order 202[ ] section 103(1) of the 2008 Act applied.”

(2) Sections 78 (right to appeal against planning decisions and failure to take such decision) and 79 (determination of appeals) of the 1990 Act have effect in relation to any appeal under the terms of this article except that the Secretary of State in question is the Secretary of State who would be responsible for determining an application for development consent with the subject matter of this Order if section 103(1) (Secretary of State is to decide applications) of the 2008 Act applied

## **Arbitration**

**49.**—(1) Any difference under any provision of this Order, unless otherwise provided for, is referred to and settled in arbitration in accordance with the rules at Schedule 12 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.

Signed by authority of the Secretary of State for Energy Security and Net Zero

Date

*Signed*  
Head of Energy Infrastructure Planning  
Department for Energy Security and Net Zero

## PART 1

## Authorised development

A nationally significant infrastructure project as defined in sections 14 and 21 of the 2008 Act, comprising:

**In the Borough of Cheshire West and Chester**

*Work No. 1:* Construction of an AGI at Ince within the location shown on Sheet 1 of the Works Plans, including—

- (a) a fenced compound area containing:
  - (i) security lighting;
  - (ii) electrical transformer;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) PIG launcher and receiver facilities;
  - (vii) connection points;
  - (viii) analyser house;
  - (ix) control mechanisms and electrical and instrumentation kiosk;
  - (x) hard standing;
  - (xi) above ground pipework, valves and instrumentation;
- (b) above ground control boxes;
- (c) below ground pipework;
- (d) below ground cables and cable ducts;
- (e) hard standing;
- (f) drainage works, including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

*Work No. 1A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 1 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 2:* The creation and use of a permanent vehicular access to the authorised development, from Elton Lane (private road), within the location shown on Sheet 1 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 3:* The creation and use of a permanent vehicular access to the authorised development, from the Pool Lane/Oil Sites Road roundabout via the unnamed road (private road and via the unnamed road (private road) from Ash Road, within the locations shown on Sheets 1 and 1a of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 3A:* The creation and use of a temporary vehicular access to the authorised development, from Work No. 3 on the unnamed road, within the location shown on Sheets 1 of the Works Plans, including improvement of road surfacing and provision of new hard surfacing.

*Work No. 3B:* The creation and use of a permanent vehicular access to the authorised development, from Ash Road within the location shown on Sheets 1 of the Works Plans, including improvement of road surfacing and provision of new hard surfacing.

*Work No. 4:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 994metres in length and with an external diameter of 20 inches (508 millimetres) between Work No. 1 and Work No. 5 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 1 and 2 of the Works Plans.

*Work No. 5:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 893metres in length and with an external diameter of 20 inches (508 millimetres) between Work No. 4 and Work No. 6 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 2 and 3 of the Works Plans.

*Work No. 5A:* Creation and use of a temporary construction access from Chester Services, within the location shown on Sheet 2 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and

- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 5B:* Creation and use of a temporary construction access from A5117, within the location shown on Sheet 2 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No 5C:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheets 1 and 2 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 6:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.6km in length and with an external diameter of 20 inches (508 millimetres) between Work No. 5 and Work No. 7 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 2, 3 and 4 of the Works Plans.

*Work No. 6A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 2, 3 and 4 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 6B:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 2, 3 and 4 of the Work Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

*Work No. 6C:* Creation and use of a temporary construction access from Old Cryers Lane, within the location shown on Sheets 3 and 4 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 6D:* Creation and use of a temporary construction access from Cryers Lane, within the location shown on Sheets 3 and 4 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) improvement of road surfacing and provision of new hard surfacing; and
- (c) creation of visibility splays.

*Work No. 6E:* Creation and use of a temporary construction access from Cryers Lane, within the location shown on Sheets 3 and 4 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing;

*Work No. 7:* Construction of two underground Carbon Dioxide (CO<sub>2</sub>) pipelines with respective external diameters of 20 inches (508 millimetres) and 36 inches (914.4 millimetres), and respective approximate lengths of 266 metres and 251 metres, from Work No. 6 to Work No. 9 and from Work No.9 to Work No.11, including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 3 and 4 of the Works Plans.

*Work No. 8:* The creation and use of a temporary vehicular access to the authorised development, from A5117 within the location shown on Sheet 1 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing.

*Work No. 9:* Construction of an AGI at Stanlow within the location shown on Sheet 3 of the Works Plans, including—

- (a) a fenced compound area containing
  - (i) security lighting;
  - (ii) electrical transformer;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) PIG launcher and receiver facilities;
  - (vii) isolation valves;
  - (viii) above ground pipework, valves and instrumentation;
  - (ix) connection points;
  - (x) analyser house;



- (xi) control mechanisms and electrical and instrumentation kiosk;
- (xii) hard standing.
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) below ground cables and cable ducts;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

*Work No. 9A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 3 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 10:* The creation and use of a permanent vehicular access to the authorised development, from Pool Lane within the location shown on Sheet 3 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 11:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.1km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 7 and Work No. 12 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 3, 4 and 5 of the Works Plans.

*Work No. 12:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 341 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 11 and Work No. 13 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;

- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 4 and 5 of the Works Plans.

*Work No. 12A:* Creation and use of a permanent access from Cryers Lane, within the location shown on Sheet 5 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing;

*Work No. 13:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.3km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 12 and Work No. 14 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 5 and 6 of the Works Plans.

*Work No. 13A:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheets 5 and 6 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 14:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 419 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 13 and Work No. 15 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 5 and 6 of the Works Plans.

*Work No. 14A:* Creation and use of permanent access from Picton Lane, within the location shown on Sheets 5 and 6 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 15:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.5km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 14 and Work No. 16 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 6 and 7 of the Works Plans.

*Work No. 15A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 6 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

*Work No. 15B:* Creation and use of a temporary construction access from Picton Lane, within the location shown on Sheet 6 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) improvement of road surfacing and provision of new hard surfacing; and
- (c) creation of visibility splays.

*Work No. 15C:* Creation and use of a permanent access from Picton Lane, within the location shown on Sheet 6 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 16:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 386metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 15 and Work No. 17 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 7 of the Works Plans.

*Work No. 16A:* Creation and use of a permanent access from Picton Lane, within the location shown on Sheet 7 of the Work Plans, including improvement of road surfacing and provision of new hard surfacing (excluding on the Bridleway).

*Work No. 16B:* Creation and use of a temporary construction access from Picton Lane, within the location shown on Sheet 7 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 17:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 807 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 16 and Work No. 18 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s);

as shown on sheets 7 and 8 of the Works Plans.

*Work No. 17A:* Creation and use of a permanent access from Wervin Road, within the location shown on Sheet 7 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 17B:* Creation and use of a permanent access from Wervin Road, within the location shown on Sheet 7 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 18:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 352 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 17 and Work No. 19 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 8 of the Works Plans.

*Work No. 18A:* Creation and use of a temporary construction access from Caughall Road, within the location shown on Sheet 8 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 19:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.4km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 18 and Work No. 22 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 8 and 9 of the Works Plans.

*Work No. 19A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 8 of the Work Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

*Work No. 19B:* Creation and use of a temporary construction access from Croughton Road, within the location shown on Sheet 8 of the Works Plans, including—

- (a) creation of a junction with the public highway; and
- (b) construction of road surfacing and provision of new hard surfacing.

*Work No. 19C:* Creation and use of a temporary access from Chorlton Lane, within the location shown on Sheet 8 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and

- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 20:* Construction of a BVS at Rock Bank, at the location shown on Sheet 8 of the Works Plans, including—

- (a) a fenced compound area containing
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk;
  - (ix) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) hard standing;
- (e) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (f) landscaping.

*Work No. 20A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 8 of the Work Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 21:* The creation and use of a permanent vehicular access to the authorised development, from Chorlton Lane within the location shown on Sheet 8 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 22:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 291 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 19 and Work No. 23 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and

- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 9 of the Works Plans.

*Work No. 23:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 545 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 22 and Work No. 24 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 9 of the Works Plans.

*Work No. 23A:* Creation and use of a temporary construction access from Station Road, within the location shown on Sheet 9 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 23B:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 9 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 24:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 286 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 23 and Work No. 25 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 9 of the Works Plans.

*Work No. 24A:* Creation and use of a temporary construction access from Station Road, within the location shown on Sheets 9 and 10 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 25:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.9km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 24 and Work No. 28 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 9, 10 and 11 of the Works Plans.

*Work No. 25A:* Creation and use of a permanent access from Station Road, within the location shown on Sheet 10 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 26:* Construction of a BVS at Mollington, at the location shown on Sheet 10 and 11 of the Works Plans, including—

- (a) a fenced compound area containing
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk;
  - (ix) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) hard standing;
- (e) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (f) landscaping.

*Work No. 26A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 10 and 11 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.



*Work No. 27:* The creation and use of a permanent vehicular access to the authorised development, from Overwood Lane within the location shown on Sheet 11 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 28:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 2.4km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 25 and Work No. 29 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 10, 11 and 12 of the Works Plans.

*Work No. 28A:* Creation and use of a temporary construction access from Overwood Lane, within the location shown on Sheets 10 and 11 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 28B:* Creation and use of a permanent access from the A540, within the location shown on Sheet 11 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 28C:* Creation and use of a permanent access from Hermitage Road, within the location shown on Sheet 12 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

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*Work No. 29:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 625 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 28 and Work No. 30 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and

- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 12 of the Works Plans.

*Work No. 29A:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 12 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 30:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.2km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 28 and Work No. 31 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 12 and 13 of the Works Plans.

*Work No. 30A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 12 and 13 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

*Work No. 30B:* Creation and use of a permanent access from the A548, within the location shown on Sheet 12 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 30C:* Creation and use of a permanent access from the A548, within the location shown on Sheets 12 and 13 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of bridge and road surfacing and provision of new hard surfacing.

*Work No. 30D:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 13 and 14 of the Works Plans, including—

- (a) office, welfare and security facilities;

- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) waste processing and management areas; and
- (h) fencing and gating.

*Work No. 30E:* Creation and use of a temporary construction access from the A548, within the location shown on Sheets 13 and 14 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) improvement of road surfacing and provision of new hard surfacing; and
- (c) creation of visibility splays.

*Work No. 31:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 873 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 30 and Work No. 32 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts, cathodic protection cabinet and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 13 and 14 of the Works Plans.

*Work No. 31A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 14 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

*Work No. 31B:* Creation and use of a permanent access from the B5129, within the location shown on Sheet 14 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) improvement of road surfacing and provision of new hard surfacing; and
- (c) creation of visibility splays.

*Work No. 31C:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 14 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 32:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 595 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 31 and Work No. 33 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 14 and 15 of the Works Plans.

*Work No. 32A:* Creation and use of a temporary construction access from the B5129, within the location shown on Sheets 14 and 15 of the Work Plans, including improvement of road surfacing and provision of new hard surfacing.

*Work No. 33:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 2.5km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 32 and Work No. 34 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 14, 15 and 16 of the Works Plans.

*Work No. 33A:* Creation and use of a permanent access from Chester Road East, within the location shown on Sheet 15 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 33B:* Creation and use of a permanent access from Moor Lane, within the location shown on Sheet 15 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 33C:* Creation and use of a permanent access from Chester Road East, within the location shown on Sheets 15 and 16 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and

- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 34:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 524 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 33 and Work No. 35 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works including removal and reinstatement of the bund along Chester Road; and
- (f) works including diversion or alteration of existing watercourse, creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 16 of the Works Plans.

*Work No. 34A:* Creation and use of a temporary construction access from Glendale Avenue, within the location shown on Sheet 16 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) provision of temporary public right of way diversion, including fencing and signage; and
- (c) improvement of road surfacing and provision of new hard surfacing.

*Work No. 35:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.9km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 34 and Work No. 38 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 16 and 17 of the Works Plans.

*Work No. 35A:* Creation and use of a permanent access from Gladstone Way, within the location shown on Sheet 16 and 17 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 36 –* Construction of a BVS at Aston Hill, at the location shown on Sheet 16 and 17 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;

- (ii) block valve;
- (iii) parking;
- (iv) cathodic protection measures;
- (v) CCTV cameras, intrusion detection systems and access control systems;
- (vi) above ground pipework, valves and instrumentation;
- (vii) connection points;
- (viii) control mechanisms and electrical and instrumentation kiosk;
- (ix) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) hard standing;
- (e) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (f) landscaping.

*Work No. 36A:* The creation and use of a temporary logistics and construction compound for use during the construction of the authorised development, within the location shown on Sheet 17 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 37:* The creation and use of a permanent vehicular access to the authorised development, from Lower Aston Hall Lane within the location shown on Sheet 17 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 38:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 377 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 35 and Work No. 39 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 17 of the Works Plans.

*Work No. 38A:* Creation and use of a temporary construction access from Lower Aston Hall Lane, within the location shown on Sheet 17 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and

- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 38B:* Creation and use of a permanent construction access from Lower Aston Hall Lane, within the location shown on Sheet 17 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 39:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 402 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 38 and Work No. 40 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 17 of the Works Plans.

*Work No. 39A:* Creation and use of a temporary construction access from Old Aston Hill, within the location shown on Sheet 17 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing

*Work No. 39B:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 17 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 40:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 561 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 39 and Work No. 41 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 17 and 18 of the Works Plans.

*Work No. 40A:* Creation and use of a temporary construction access from Old Aston Hill, within the location shown on Sheets 17 and 18 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 40B:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheets 17 and 18 the Work Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 40C:* Creation and use of a permanent access from Church Lane, within the location shown on Sheet 17 of the Works Plans, including—

- (a) creation of new bellmouth junction; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 41:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.1km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 40 and Work No. 42 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 17 and 18 of the Works Plans.

*Work No. 41A:* Number not used

*Work No. 41B:* Creation and use of a temporary construction access from the B5125, within the location shown on Sheet 18 of the Works Plans, including—

- (a) construction of a temporary construction access and working area;
- (b) improvement of an existing junction with the public highway;
- (c) improvement of road surfacing and provision of new hard surfacing; and
- (d) creation of visibility splays.

*Work No. 41C:* Creation and use of a permanent access from the B5125, within the location shown on Sheet 18 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 41D:* Number not used

*Work No. 42:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.8km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 41 and Work No. 43 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;



- (e) landscaping, ecological and environmental works;
- (f) alteration or removal of existing structures; and
- (g) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 18 and 19 of the Works Plans.

*Work No. 42A:* Creation and use of a permanent access from Green Lane, within the location shown on Sheet 18 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 43:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 611 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work Nos. 42 and 43E and between Work Nos, 43E and 44 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 19 of the Works Plans.

*Work No. 43A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 19 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 43B:* Creation and use of a permanent access from Pinfold Lane, within the location shown on Sheet 19 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 43C:* Creation and use of a temporary construction access from unnamed road, within the location shown on Sheet 19 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 43D:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 19 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No 43E*: Construction of a concrete, embedded pipe bridge structure to carry the pipeline across the Alltami Brook, being formed of a concrete span and abutments, with the pipeline buried within the structure of the bridge under a removable concrete slab, and including;

- a) Ground works including alteration of ground levels, ground stabilisation;
- b) Piling for abutments if required;
- c) Fencing, gating, handrails and/or fall protection and other security measures;
- d) Surface water drainage within the pipe bridge structure; and
- e) Creation of a diverted public right of way route (including where required, alteration of ground levels and ground stabilisation).

*Work No. 44*: Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 2.5km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 43 and Work No. 47 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 19 and 20 of the Works Plans.

*Work No. 44A*: The creation and use of a permanent access to the authorised development including creation and/or improvement of road surfacing and provision of new hard surfacing; and a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 19 and 20 of the Work Plans, including as temporary works—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 44B*: Creation and use of a temporary construction access from the B5125, within the location shown on Sheet 20 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 44C*: The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 20 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;

- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

*Work No. 45:* Construction of an AGI at Northop Hall, within the location shown on Sheet 20 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) electrical transformer;
  - (iii) parking;
  - (iv) CCTV cameras, intrusion detection systems and access control systems;
  - (v) PIG launcher and receiver facilities;
  - (vi) isolation valves;
  - (vii) connection points;
  - (viii) analyser house;
  - (ix) control mechanisms and electrical and instrumentation kiosk;
  - (x) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) below ground cables and cable ducts;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

*Work No 45A:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 20 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 45B:* The creation and use of a permanent vehicular access to the authorised development, from B5125 within the location shown on Sheet 20 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 46:* The creation and use of a temporary vehicular construction access to the authorised development, from B5125 within the location shown on Sheet 20 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing; and
- (b) creation of a new bellmouth junction and visibility splays.

*Work No. 47:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 2.4km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 44 and Work No. 50 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;

- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 20, 21 and 22 of the Works Plans.

*Work No. 47A:* Creation and use of a temporary construction access from Starkey Lane, within the location shown on Sheet 21 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 47B:* Creation and use of a temporary construction access from Starkey Lane, within the location shown on Sheet 21 and 22 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 48:* Construction of an AGI at Flint, within the location shown on Sheet 22 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) electrical transformer;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) PIG launcher and receiver facilities;
  - (vii) isolation valves;
  - (viii) connection points;
  - (ix) analyser house;
  - (x) control mechanisms and electrical and instrumentation kiosk
  - (xi) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) below ground cables and cable ducts;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

*Work No. 48A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 22 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 49:* The creation and use of a permanent vehicular access to the authorised development, from Allt-Goch Lane (east) within the location shown on Sheet 22 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 50:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 422 metres in length and with an external diameter of 24 inches (609.6 millimetres) between Work No. 47 and the existing pipeline including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works;
- (f) works to connect to the existing pipeline and
- (g) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 22 and 23 of the Works Plans.

*Work No. 51 –* Construction of a BVS at Cornist Lane, at the location shown on Sheet 25 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk;
  - (ix) hard standing;
- (b) below ground pipework;
- (c) works to connect to the existing pipeline;
- (d) above ground control boxes;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

*Work No. 51A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 25 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;

- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 51B:* The creation and use of a temporary working area for the use during the construction of Work No. 51, within the location shown on Sheets 24 and 25 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 52:* The creation and use of a permanent vehicular access to the authorised development, from Cornist Lane within the location shown on Sheet 25 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 53:* – Construction of a BVS at Pentre Halkyn at the location shown on Sheet 27 and 28 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk;
  - (ix) hard standing;
- (b) below ground pipework;
- (c) works to connect to the existing pipeline;
- (d) above ground control boxes;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

*Work No. 53A:* The creation and use of a temporary logistics and construction compound for use during the construction of the authorised development, within the location shown on Sheets 27 and 28 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) plant storage;
- (e) waste processing and management areas; and
- (f) fencing and gating.

*Work No. 53B:* The creation and use of a temporary working area for the use during the construction of Work No. 53, within the location shown on Sheets 27 and 28 the Work Plans including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 54:* The creation and use of a permanent vehicular access to the authorised development, from B5121 within the location shown on Sheet 27 and 28 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 55:* Construction of a BVS at Babell, at the location shown on Sheet 29 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk;
  - (ix) hard standing;
- (b) below ground pipework;
- (c) works to connect to the existing pipeline;
- (d) above ground control boxes;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

*Work No. 55A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 29 and 30 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 55B:* The creation and use of a temporary working area for the use during the construction of Work No.55, within the location shown on Sheets 29 and 30 the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 56:* The creation and use of a permanent vehicular access to the authorised development, from Racecourse Lane within the location shown on Sheet 29 and 30 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No 57:* the provision of environmental and ecological mitigation for the authorised development including landscaping, woodland and hedgerow planting, scrub planting, riparian planting, habitat creation, fencing and gating, comprising:

### **In the Borough of Cheshire West and Chester**

*Work No. 57A:* Creation of environmental mitigation, east of Cryers Lane, at the location shown on Sheets 2, 3 and 4 of the Works Plans, including woodland planting.

*Work No. 57B:* Creation of environmental mitigation south-west of Stanlow AGI, at the location shown on Sheets 3 and 4 of the Works Plans, including woodland planting.

*Work No. 57C:* Creation of environmental mitigation north of the M56 at the location shown on Sheets 4 and 5 of the Works Plans, including woodland planting.

*Work No. 57D:* Creation of environmental mitigation south of the M56 at the location shown on Sheets 4 and 5 of the Works Plans, including woodland planting.

*Work No. 57E:* Creation of environmental mitigation east of River Gowy/ south of M56 at the location shown on Sheets 5 and 6 of the Works Plans, including woodland planting.

*Work No. 57F:* Creation of environmental mitigation west of River Gowy/ south of M56 at the location shown on Sheets 5 and 6 of the Works Plans, including –

- (a) woodland planting to create new woodland block west of River Gowy; and
- (b) riparian planting along western bank of River Gowy and connected ditch.

*Work No. 57G:* Creation of environmental mitigation north of the Shropshire Union Canal / west of Liverpool Road at the location shown on Sheet 9 of the Works Plans, including woodland planting.

### **In the County of Flintshire**

*Work No. 57H:* Creation of environmental mitigation east of the A494 at the location shown on Sheet 17 of the Works Plans, including—

- (a) woodland planting; and
- (b) scrub planting over the pipeline.

*Work No. 57I:* Creation of environmental mitigation west of Aston Hill/east of Shotton Lane at the location shown on Sheet 17 and 18 of the Works Plans, including—

- (a) woodland planting; and
- (b) scrub planting over the easement, where the pipeline is laid, and over known utilities locations.

*Work No 57J:* Creation of environmental mitigation on land east of Alltami Brook at the location shown on Sheet 19 of the Works Plans, including—

- (a) creation of new woodland block; and
- (b) scrub planting over the pipeline.

*Work No 57K:* Creation of environmental mitigation at Alltami Brook at the location shown on Sheet 19 of the Works Plans, including—

- (a) woodland planting either side of the pipeline;
- (b) scrub planting over the pipeline; and
- (c) riparian planting along the edge of the brook.

*Work No 57L:* Creation of environmental mitigation east of Brookside at the location shown on Sheets 19 and 20 of the Works Plans, including—

- (a) woodland planting;
- (b) scrub planting over known utilities' locations; and
- (c) riparian planting buffer along the southern edge of the order limits adjacent to ditch, should trees along the boundary be removed. Else, continuation of woodland planting only.



*Work No 57M:* Creation of environmental mitigation west of Work No.44 at the location shown on Sheet 20 of the Works Plans, including –

- (a) woodland planting; and
- (b) scrub planting over the pipeline.

*Work No 57N:* Creation of environmental mitigation west of Work No. 57M at the location shown on Sheet 20 of the Works Plans, including –

- (a) woodland planting; and
- (b) scrub planting over the pipeline.

And in connection with Work Nos. 1 to 57N, and to the extent that they do not otherwise form part of any such work, development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) temporary works for the benefit or protection of land, watercourses or structures affected by the authorised development;
- (b) site clearance (including fencing and demolition of existing structures);
- (c) earthworks (including soil stripping and storage, site levelling and alteration of ground levels), and remediation of contamination if present;
- (d) works to alter the position of apparatus at or below ground level including mains, sewers, drains and cables and also including below ground structures associated with that apparatus;
- (e) watercourse and other temporary crossings;
- (f) means of access and other vehicular and/or pedestrian means of access, including creation of new tracks and footpaths, and/or widening, upgrades, alterations and improvements of existing roads, tracks and footpaths/alteration of layout of streets to form temporary and permanent accesses, altering the level of any kerb, footway or verge within a street and surface treatments; diversions during construction of existing access routes and subsequent reinstatement of existing routes;
- (g) surface water management systems, temporary drainage during installations;
- (h) landscaping works/landscaping, planting, vegetation removal, trimming and lopping of trees, tree planting and erection of permanent means of enclosure and boundary facilities including fences and gates, alteration of drains and ditches, bunds, embankments, swales, landscaping, fencing and boundary treatments;
- (i) manholes, marker posts, underground markers, tiles and tape;
- (j) works for the provision or relocation of apparatus including cabling, water and electricity supply works, foul drainage provision;
- (k) creation, use and reinstatement of crane pads; and
- (l) works of restoration.

## PART 2

### Ancillary works

Works within the Order limits which fall within the scope of the work assessed by the environmental statement comprising works for the benefit or protection of land affected by the authorised development.

## SCHEDULE 2 Requirements

Article 3

### PART 1 Requirements

#### Interpretation

**1.** In this Schedule—

“AOD” means above Ordnance Datum;

“commissioning” means the process during which plant components and systems forming part of the authorised development, having been constructed or modified, are made operational and are tested and verified to be in accordance with design assumptions and to have met the appropriate safety criteria;

“contaminated land” has the same meaning as that given in section 78A of the Environmental Protection Act 1990(a);

“CTMP” means construction traffic management plan;

“DEMP” means decommissioning environmental management plan;

“discharging authority” means any body responsible for giving any consent, agreement or approval required by a requirement included in Part 1 of this Schedule, or for giving any consent, agreement or approval further to any document referred to in any such requirement;

“LEMP” means the landscape and ecology management plan; and

“requirement consultee” means any body named in a requirement as a body to be consulted by the discharging authority in discharging that requirement.

“stage” means the works and ancillary works, or parts thereof, to be carried out together as a phase of, or in a defined order within, the construction of the authorised development.

#### Time limits

**2.**—(1) The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force.

(2) Notice of commencement of the authorised development must be given to the relevant planning authorities no later than 14 days before the date on which the authorised development is intended to be commenced.

#### Stages of authorised development

**3.**—(1) (a) The authorised development may not commence until a written scheme setting out all stages of the authorised development and including a plan indicating when each stage will be implemented, has been submitted to each relevant planning authority.

(b) The written scheme submitted under this sub-paragraph may be amended by the undertaker. Where any amended written scheme is submitted under this sub-paragraph, any prior submitted written scheme will be held to be superseded.

(c) Any amended written scheme must be submitted to each relevant planning authority before any amendment may take effect for the purpose of sub-paragraph (4).

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(a) 1990 c.43.

(2) The description of each stage in the written scheme to be submitted under sub-paragraph (1) must include the Work No(s) of the works within that stage.

(3) More than one stage may be planned to be undertaken concurrently.

(4) The authorised development must be implemented in accordance with the written scheme submitted under sub-paragraph (1).

### Scheme design

4.—(1) The authorised development must be carried out in general accordance with the general arrangement plans. The authorised development will not be in general accordance with the general arrangement plans if any departure from the general arrangement plans would give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(2) The authorised development must be designed in accordance with the parameters specified in Table 1 below and the works plans and implemented in accordance with approved plans and any other approvals given by the relevant planning authority pursuant to these requirements.

**Table 1**

<i>Work Type</i>	<i>Parameter</i>	<i>Part(s) of the authorised development</i>	<i>Maximum value(s) and unit</i>
AGI	Maximum fenced area of Ince AGI	Work No. 1	1,800m <sup>2</sup>
AGI	Maximum fenced area of Stanlow AGI	Work No. 9	2,656m <sup>2</sup>
AGI	Maximum fenced area of Northop Hall AGI	Work No.45	1,155m <sup>2</sup>
AGI	Maximum fenced area of Flint AGI	Work No.48	5,600m <sup>2</sup>
AGI	Maximum height of buildings and structures	Work Nos. 1, 9, 45 and 48	5m from ground level
AGI	Maximum width of new permanent accesses	Work Nos. 2, 8, 10, 46 and 49	6m
AGI	Maximum height of fencing and gating	Work No. 1, 9, 45, 48	3m from ground level
BVS	Maximum fenced area of BVS	Work No. 20, 26, 36, 51, 53, 55	1,050m <sup>2</sup>
BVS	Maximum height of buildings and structures	Work Nos. 20, 26, 36, 51, 53 and 55	5m from ground level
BVS	Maximum height of fencing and gating	Work Nos. 20, 26, 36, 51, 53 and 55	3m from ground level
BVS	Maximum width of new permanent accesses	Work No. 21, 27, 37, 52, 54 and 56	3m
Construction compound	Maximum height of fencing and gating	Work No. 6B, 15A, 19A, 30A, 30D, 31A, 41A and 44C	2.4m from ground level
Construction Compound	Maximum fenced area of Stanlow Compound	Work No. 6B	66,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Picton Lane Compound	Work No. 15A	32,000m <sup>2</sup>

Construction Compound	Maximum fenced area of Chorlton Lane Compound	Work No. 19A	41,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Wood Farm Compound	Work No. 30D	90,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Sealand Road Compound	Work No. 30A	48,000m <sup>2</sup>
Construction Compound	Maximum fenced area of River Dee Compound	Work No. 31A	43,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Shotton Lane Compound	Work No. 41A	37,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Northop Hall Compound	Work No. 44C	35,000m <sup>2</sup>

(3) The buildings and structures identified in Table 1 must only be constructed within the area for the Work No. of which they form part as shown in the works plans.

(4) Each of Work Nos. 1, 9, 20, 26, 36, 45, 48, 51, 53 and 55 may not be commenced until, for that Work No. the following details have been submitted to and approved by the relevant planning authority:

- (a) the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings and structures;
- (b) details of permanent accesses to the public highway;
- (c) details of any external lighting; and
- (d) details of the noise ratings of any external machinery or potentially noisy installations (such as fans).

(5) No part of Work No. 43E may be commenced until details of the design and construction methodology of any works have been submitted to and approved by the relevant planning authority following consultation with Natural Resources Wales.

(6) The details submitted under sub-paragraph (5) must be accompanied by flood risk assessment showing the maximum water level reached in a 1 in 100 year event plus 40% climate change scenario. The soffit level of the embedded pipe bridge over the Alltami brook must be set no less than 300 millimetres above that maximum water level. The flood consequences assessment must also demonstrate that the impacts of the proposal on flood risk elsewhere can be managed to an acceptable level.

(7) Where the position of the abutments of Work No. 43E require the stopping up of part of the current route of Footpath 414/39A, the details submitted under sub-paragraph (5) must include a scheme setting out the alternative route and specification for the permanent diversion of the part of public right of way Footpath 414/39A to be stopped up, and setting out how that alternative is to be legally created.

(8) The works listed in sub-paragraph (4) and (5) must be implemented in accordance with the details approved under this paragraph.

### **Construction environmental management plan**

**5.—**(1) No stage of the authorised development can commence until a CEMP which includes that stage has been submitted to and approved by the relevant planning authority.

(2) The CEMP must be in accordance with the outline construction environment management plan and include management plans, working methods and mitigation measures including—

- (a) details of lighting during construction;

- (b) noise and vibration management plan;
- (c) dust management plan;
- (d) material management plan;
- (e) soil management plan;
- (f) peat management plan;
- (g) waste management plan;
- (h) groundwater management and monitoring plan;
- (i) bio-security management plan;
- (j) surface water management and monitoring plan;
- (k) dewatering management plan;
- (l) stakeholder communications plan; and
- (m) public rights of way management plan.

(3) Each stage of the authorised development must be implemented in accordance with the approved CEMP for that stage.

### **Construction traffic**

6.—(1) Save in respect of matters approved in accordance with articles 13 (temporary restriction of public rights of way) and 15 (temporary restriction of use of streets) no stage of the authorised development must commence until a CTMP for that stage, in accordance with the outline construction traffic management plan, has been submitted to and approved by the relevant planning authority following consultation with the relevant highway authority.

(2) The CTMP for each stage must include a construction logistics plan to manage delivery of goods and materials.

(3) The CTMP for each stage must include a construction worker travel plan in accordance with the interim worker travel plan and include measures to be taken to promote sustainable travel options and minimise use of private vehicles.

(4) Each stage of the authorised development must be implemented in accordance with the approved CTMP for that stage.

### **Highway accesses**

7.—(1) Construction of any new permanent or temporary means of access to a highway, or alteration, or use of an existing means of access to a highway, must not commence until an access plan for that access has been submitted to and approved by the relevant highway authority.

(2) The access plan must include details of the siting, design, layout, visibility splays, access management measures and a maintenance programme relevant to the access it relates to.

(3) The relevant highway authority must be consulted on the access plan before it is submitted for approval.

(4) The highway accesses (including visibility splays) must be implemented in accordance with the approved details.

### **Surface water drainage**

8.—(1) No development of Work Nos. 1, 9, 20, 26, 36, 45, 48, 51, 53 and 55 may commence until, for that Work No, a surface water drainage plan for permanent works relevant to that stage, in accordance with the relevant part of the outline surface water drainage strategy has been submitted to and approved by the relevant planning authority or, where applicable, the Environment Agency and/or Natural Resources Wales and/or the Lead Local Flood Authority.

(2) The surface water drainage system for each stage must be implemented in accordance with the approved details

(3) No discharge of water under article 20 (discharge of water) must be made until details of the location and rate of discharge have been submitted to the relevant planning authority or, where applicable, the Environment Agency and/or Natural Resources Wales and/or the Lead Local Flood Authority.

## **Contaminated land and groundwater**

### **9.**

#### *Part A - Stanlow*

(1) No intrusive works or any works which are likely to cause significant harm to persons or pollution of controlled waters or the environment, other than those necessary to undertake ground investigation for the purposes of identifying any contamination which may be present, can be carried out within plots 3-11, 3-12, 3-13, 3-14 and 3-15, unless and until either sub-paragraph (2) or sub-paragraph (3) has been complied with.

(2) The Environment Agency has confirmed in writing that any contamination of the plots listed in sub-paragraph (1) has been remediated to a standard which renders those plots fit for the use consented under this Order.

(3) The undertaker must:

- (a) carry out further ground investigations within plots 3-11, 3-12, 3-13, and within the highway verges within plots 3-14 and 3-15, to identify any contamination present. The investigations must include testing for Per- and polyfluoroalkyl substances.
- (b) Where no contamination is identified under paragraph (a), the undertaker must submit a report of the investigations undertaken and the results thereof to the relevant planning authority; no works set out in sub-paragraph (1) may be undertaken unless and until the relevant planning authority, following consultation with the Environment Agency, has approved the report submitted.
- (c) Where contamination is identified under paragraph (a), a written risk assessment must be completed by the undertaker in order to assess the nature and extent of any contamination. Where having regard to that risk assessment;
  - (i) the undertaker considers that remediation is required, a detailed remediation scheme must be prepared and submitted by the undertaker for the approval of the relevant planning authority in consultation with the Environment Agency; or
  - (ii) the undertaker considers that remediation is not required, the risk assessment must be submitted to the relevant planning authority; and
  - (iii) remediation is determined by the relevant planning authority, following consultation with the Environment Agency, not to be required, the relevant planning authority must approve the risk assessment and Work Nos. 5 and 7 may commence; or
  - (iv) remediation is determined by the relevant planning authority, following consultation with the Environment Agency, to be required, a detailed remediation scheme must be prepared and submitted by the undertaker for the approval of the relevant planning authority in consultation with the Environment Agency.
- (d) Where a remediation scheme is required under paragraph (c), the remediation must be implemented by the undertaker in accordance with the approved detailed remediation scheme, and a verification report following completion of those remediation works must be submitted to the relevant planning authority for approval before Work Nos 5 and 7 may be commenced. Such approval shall not be unreasonably withheld or delayed.

#### *Part B— other sites identified as requiring further investigation*

(4) No intrusive works or any works which are likely to cause significant harm to persons or pollution of controlled waters or the environment, other than those necessary to undertake ground investigation for the purposes of identifying any contamination which may be present, can be carried out within plots 1-25, 4-12, 4-20, 8-10 and 8-12 unless and until sub-paragraph (5) has been complied with.

(5) The undertaker must:

- (a) carry out further ground investigations within plots 1-25 (adjacent to Ince railway), plot 4-12 (in the former gateway), plots 8-10 and 8-12, and groundwater testing in plot 4-20 (to the north of the M56 motorway)] to identify any contamination present.
- (b) Where no contamination is identified under paragraph (a), the undertaker must submit a report of the investigations undertaken and the results thereof to the relevant planning authority; no works in the plots set out in sub-paragraph (4) may be undertaken unless and until the relevant planning authority, following consultation with the Environment Agency, has approved the report submitted.
- (c) Where contamination is identified under paragraph (a), a written risk assessment must be completed by the undertaker in order to assess the nature and extent of any contamination. Where having regard to that risk assessment;
  - (i) the undertaker considers that remediation is required, a detailed remediation scheme must be prepared and submitted by the undertaker for the approval of the relevant planning authority in consultation with the Environment Agency; or
  - (ii) the undertaker considers that remediation is not required, the risk assessment must be submitted to the relevant planning authority; and
  - (iii) remediation is determined by the relevant planning authority, following consultation with the Environment Agency, not to be required, the relevant planning authority must approve the risk assessment and Works in the plots listed in sub-paragraph (4) may commence; or
  - (iv) remediation is determined by the relevant planning authority, following consultation with the Environment Agency, to be required, a detailed remediation scheme must be prepared and submitted by the undertaker for the approval of the relevant planning authority in consultation with the Environment Agency.
- (d) Where a remediation scheme is required under paragraph (c), the remediation must be implemented by the undertaker in accordance with the approved detailed remediation scheme under sub-paragraph (5), and a verification report following completion of those remediation works must be submitted to the relevant planning authority for approval and such approval shall not be unreasonably withheld or delayed.

(6) Approval of the requirements of sub-paragraphs (4) and (5) may be sought and granted in stages provided that plots 1-19; 1-20; 1-21; 1-22; 1-23; 1-24 and 1-25 must all be contained within a single stage, plots 3-18; 4-19; 4-20; 5-01; 5-02; 5-03; 5-04 and 5-05 must all be contained within a single stage and plots 3-16; 4-11; 4-12; 4-13; 4-14; 4-15; 4-16; 4-17; and 4-18; must all be contained within a single stage. Nothing in this part of this requirement will prevent the commencement of works in any stage which does not contain any of the plots listed in sub-paragraph (4).

*Part C – unexpected contamination*

(7) In the event that contamination is found at any time when carrying out the authorised development it must be reported in writing to the relevant planning authority as soon as reasonably practicable.

(8) Where contamination has been reported to the relevant planning authority in accordance with sub-paragraph (7), an investigation and risk assessment must be completed by the undertaker in accordance with a contamination scheme to assess the nature and extent of any contamination on the part of the Order limits within which works are being carried out, whether or not that contamination originates on that part of the Order limits; and—

- (a) the contents of that contamination scheme are subject to the approval of the relevant planning authority; and
- (b) that investigation and risk assessment must be undertaken by the undertaker within timescales agreed with the relevant planning authority and in accordance with the approved contamination scheme, and a written report of the findings must be submitted to the relevant planning authority.

(9) Where remediation is determined by the relevant planning authority to be required having had regard to the results of an investigation and risk assessment carried out under sub-paragraph (8), a detailed remediation scheme must be prepared and submitted by the undertaker for the approval of the relevant planning authority.

(10) Unless otherwise agreed by the relevant planning authority, no intrusive works or other works which would disturb the contaminated land or groundwater can be carried out in the part of the Order limits in which the contamination is identified under sub-paragraph (7) until the investigation and risk assessment in accordance with sub-paragraph (8), and if required, a remediation scheme in accordance with sub-paragraph (9) has been submitted to and approved by the relevant planning authority.

(11) The remediation must be implemented by the undertaker in accordance with the approved detailed remediation scheme under sub-paragraph (9), and a verification report following completion of those remediation works must be submitted to the relevant planning authority for approval. Such approval shall not be unreasonably withheld or delayed.

### **Archaeology**

**10.**—(1) The authorised development must be implemented in accordance with the outline archaeological written scheme of investigation.

(2) No stage of the authorised development with the potential to affect buried archaeological assets must commence until a written scheme for the investigation of areas of archaeological interest relevant to that stage (if any) as identified in the outline archaeological written scheme of investigation has been submitted to and approved by the relevant planning authority following consultation with Historic England or Cadw as appropriate.

(3) The scheme approved under sub-paragraph (1) must be in accordance with the outline archaeological written scheme of investigation, and identify the measures to be taken to investigate, protect, record or preserve any significant archaeological remains that may be found.

(4) Any archaeological works carried out under the approved scheme must be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of that Institute.

(5) Any archaeological works must be implemented in accordance with the approved scheme.

### **Landscape and ecological management plan**

**11.**—(1) Subject to sub-paragraph (3), no stage of the authorised development must commence until a LEMP, for that stage, in accordance with the outline landscape and ecological management plan, has been submitted to and approved by the relevant planning authority.

(2) The LEMP must include:

- (a) an implementation timetable;
- (b) measures for the protection of ancient woodland areas detailed within an arboricultural method statement and shown on a tree protection plan; and
- (c) measures for the protection of existing features adjacent to the Works as detailed in the Environmental Statement.

(3) Each stage of the authorised development must be implemented in accordance with the approved LEMP for that stage.

(4) Sub-paragraph (1) only applies to those stages of the authorised development in respect of which any landscape and ecological management measures are to be implemented by the undertaker, as identified in the outline LEMP.



## **Ecological surveys**

**12.** No stage of the authorised development may commence until it has been established by survey work whether any European protected species are present within the Order limits or may be affected by that stage of the authorised development.

## **Biodiversity Net Gain**

**13.**—(1) No development may commence until a scheme (which may comprise of up to 2 parts being one for within England and one for within Wales) securing the provision of BNG of 1% or greater for the priority habitats affected by the authorised development (as calculated using Natural England Biodiversity Metric 3.1), has been submitted to and approved in writing by the relevant planning authority. The scheme must set out measures to deliver and secure the maintenance for 30 years of the BNG provision.

(2) Where such a scheme is approved under this requirement, the works set out in that scheme must be carried out in accordance with the approved scheme.

(3) The approved scheme shall be maintained in accordance with the scheme of maintenance secured for 30 years of the BNG provision under sub-paragraph (2).

## **Construction hours**

**14.**—(1) Subject to sub-paragraphs (2), (3) and (4), construction works must only take place between 0800 and 1800 on weekdays and 0800 to 1300 on Saturdays (except public and bank holidays), except in the event of an emergency unless a scheme for the carrying of those works specifying the hours in which they may be carried out has been submitted to and approved by the relevant planning authority. Where such a scheme is approved under this requirement, the works set out in that scheme must be carried out in accordance with the approved scheme.

(2) In the event of an emergency, notification of that emergency must be given to the relevant planning authority and the relevant highway authority as soon as reasonably practicable.

(3) The following operations may where necessary continue or take place outside the working hours referred to in sub-paragraph (1)—

- (a) trenchless construction techniques which cannot be interrupted;
- (b) filling, testing, dewatering and drying; and
- (c) commissioning of the pipeline works.

(4) Nothing in sub-paragraph (1) precludes—

- (a) the receipt of oversize deliveries to site and the undertaking of non-intrusive activities;
- (b) start-up and shut-down activities up to an hour either side of the stated working hours and undertaken in compliance with the CEMP;
- (c) works on a traffic sensitive street where so directed by the relevant highway authority; and
- (d) works to make construction sites safe in the event of extreme weather.

(5) In this Requirement—

“emergency” means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable opinion of the undertaker would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action;

“non-intrusive activities” means activities which would not create any discernible light, noise or vibration outside the Order limits;

“trenchless construction techniques which cannot be interrupted” means drilling, tunnelling, boring or similar construction methods used to create an underground route for the pipeline without trenching from the surface, and includes any necessary ancillary activities to that drilling, tunnelling or boring; but does not include operations to prepare for drilling, tunnelling

and boring, and specifically does not include works of excavation of pits, or works to remediate the site of pits used for drilling, tunnelling and boring; and

“start-up and shut-down activities” includes personnel briefings, inspections, tool-box talks, inductions, health and safety works, deliveries, movement to place of work, unloading, maintenance and general preparation work; but does not include operation of heavy machinery for construction, or operation of generators or flood lights at work-fronts.

### **Operational noise**

**15.**—(1) Between 23.00 and 07.00 hours, noise arising from normal operation of the AGIs and BVSs may not exceed the rating levels identified in Table 15-23 of the environmental statement. Rating levels are applicable as a free field noise level at 1m from any residential property which is lawfully inhabited at the date of the making of this Order at the locations shown in Table 15-23

(2) The level set out in sub-paragraph (1) is to be as measured in accordance with British Standard 4142:2014+A1:2019 (Methods for rating and assessing industrial and commercial sound) and British Standard 7445-3:1991 (Description and measurement of environmental noise. Guide to application to noise limits) or any standards replacing those.

(3) Prior to the commencement of the authorised development, the undertaker must submit a plan to the relevant planning authorities for approval detailing how noise monitoring will be undertaken within a six month period beginning with the date of first operation of the authorised development. That plan must specify a monitoring location point for each AGI and BVS, which must be in as close proximity as the undertaker can lawfully access, or at the points representative of noise sensitive receptors, as shown in Table 15-23 of the environmental statement.

(4) Noise monitoring must be undertaken by the undertaker in accordance with the plan approved under sub-paragraph (3); and the results of this monitoring must be submitted by the undertaker to the relevant planning authority at the intervals set out in the plan.

(5) Where the results of the monitoring undertaken in accordance with sub-paragraphs (3) and (4), show any exceedance of the level set out in sub-paragraph (1), the undertaker must, within 10 working days, submit to the relevant planning authority for approval a mitigation plan detailing how the exceedance will be mitigated and including a timetable for implementing any works required to deliver such mitigation.

(6) The undertaker must comply with any plan approved under sub-paragraph (5).

### **Provision of ‘as built’ details**

**16.** The undertaker must, within 3 months of the completion of the authorised development, provide to the relevant planning authorities details of:

- (a) the location and depth of each part of the Pipeline as it has been constructed;
- (b) any protective measures in place over any part of the Pipeline; and
- (c) the locations of pipeline markers.

### **Restoration of land**

**17.** Subject to article 35 (temporary use of land for carrying out the authorised development), any land within the Order limits which is used temporarily for or in connection with construction must be reinstated to a condition fit for its former use, or such other condition as the relevant planning authority may approve, within 12 months of completion of the authorised development.

### **Operational and maintenance environmental management plan**

**18.**—(1) The undertaker must, no later than three months prior to the planned completion of commissioning of the authorised development, submit to the relevant planning authorities the operational and maintenance environment management plan (or plans) which details the monitoring

and management requirements of the authorised development, including post-construction monitoring.

(2) The operational and maintenance environment management plans submitted under sub-paragraph (1) must be in accordance with the outline operational and maintenance environment management plan, and developed having regard to the approved CEMP(s) and the LEMP(s).

(3) Operation of the authorised development must be implemented in accordance with the submitted operational and maintenance environment management plan(s).

#### **Decommissioning environmental management plan**

**19.**—(1) The undertaker must, no later than six months prior to the planned permanent cessation of operation of the authorised development, submit to the relevant planning authorities for approval a DEMP.

(2) The DEMP submitted under sub-paragraph (3) must include- the details required by the demolition management plan and specifically including:

- (a) details of any below ground apparatus to be left in situ;
- (b) method statements for the decommissioning and dismantlement of above ground infrastructure;
- (c) traffic management plan for the decommissioning works; and
- (d) waste management plan for the decommissioning works;

(3) Decommissioning of the authorised development must be implemented in accordance with the approved DEMP.

#### **Written approval.**

**20.** Where under any of the Requirements the approval or agreement of the relevant planning authority or another person or authority is required, that approval or agreement must be given in writing.

#### **Amendments to approved details**

**21.**—(1) With respect to any Requirement which requires the authorised development to be carried out in accordance with the details approved by the relevant planning authority or another discharging authority, the approved details must be carried out as approved unless an application for an amendment or variation is previously agreed, by the relevant planning authority or that other discharging authority as specified in the relevant Requirement, in accordance with sub-paragraph (2) and in consultation with any body specified in the relevant Requirement.

(2) No amendments to or variations from the approved details may be approved if their likely significant effects on the environment are not assessed in the environmental statement, or have not been subject to such further assessment as the relevant planning authority or that other discharging authority may require; provided that such approval must not be given except where it has been demonstrated that the subject-matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects in comparison with the authorised development as approved (as identified in the environmental statement).

(3) The approved details must be taken to include any amendments that may subsequently be approved by the relevant planning authority or that other discharging authority.

(4) Subject to sub-paragraph (2), if a relevant planning authority which receives an application for approval of any amendments to approved details under sub-paragraph (1) fails to notify the undertaker of its decision before the end of the period of 56 days beginning with the date on which the application was made, such longer period as may be agreed in writing by the undertaker and the relevant authority, it is deemed to have granted consent.

## **Anticipatory steps towards compliance with any requirement**

22. If, before the coming into force of this Order, the undertaker or any other person has taken any steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

## **PART 2**

### **Applications made under requirements**

23.—(1) Where an application has been made to a discharging authority for any consent, agreement or approval under a requirement, the discharging authority must give notice to the undertaker of its decision on the application within a period of 56 days beginning with—

- (a) where no further information is requested under requirement 25, the day immediately following that on which the application is received by the authority;
- (b) where further information is requested under requirement 25, the day immediately following that on which further information has been supplied by the undertaker; or
- (c) such longer period as may be agreed in writing by the undertaker and the relevant authority.

(2) In the event that the discharging authority does not determine an application within the period set out in sub-paragraph (1), the discharging authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period unless otherwise agreed in writing.

### **Multiple discharging authorities**

24. Where an application is required to be made to more than one discharging authority for any single consent, agreement or approval under a requirement, the undertaker may submit a request for comments in respect of its proposed application to each discharging authority and, where it does so, each discharging authority must provide its comments in writing on the proposed application within a period of 20 days beginning with the day immediately following that on which the request is received by the authority, or such longer period as may be agreed in writing by the undertaker and the relevant authority or authorities, so as to enable the undertaker to prepare a consolidated application to each discharging authority in respect of the consent, agreement or approval required by the requirement.

### **Further information**

25.—(1) Where an application has been made under requirement 23 the discharging authority may, subject to complying with the requirements of this paragraph, request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(2) If the discharging authority considers further information is necessary and the requirement does not specify that consultation with a requirement consultee is required, the discharging authority must, within 21 days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement specifies that consultation with a requirement consultee is required, the discharging authority must issue the consultation to the requirement consultee within 10 days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 10 days of receipt of such a request and in any event within 21 days of receipt of the application.

(4) If the discharging authority does not give the notification mentioned in sub-paragraphs (2) or (3) or such longer period as may be agreed in writing by the undertaker and the relevant authority, or otherwise fails to request any further information within the timescales provided for in this paragraph, it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

## Fees

26.—(1) Where an application or a request for comments is made to a relevant planning authority for any consent, agreement or approval required by a requirement, a fee must be paid to the relevant planning authority as follows—

- (a) such fee as may be prescribed (under sections 303 and 333(2A) of the 1990 Act for the discharge of conditions attached to a planning permission); or
- (b) a fee of £117 per application or request.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 35 days of—

- (a) the application or request being rejected as invalidly made; or
- (b) the relevant planning authority failing to determine the application or to provide written comments within 56 days from the date on which the application is received, or such longer period as may be agreed in writing under requirement 23, unless within that period the undertaker agrees in writing that the fee may be retained by the relevant planning authority and credited in respect of a future application or a future request for comments.

## Appeals

27.—(1) The undertaker may appeal if—

- (a) the discharging authority refuses an application for—
  - (i) any consent, agreement or approval required by a requirement or any document referred to in any requirement; or
  - (ii) any other consent, agreement or approval required under this Order, or grants it subject to conditions to which the undertaker objects;
- (b) having received a request for further information under requirement 25 the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
- (c) having received any further information requested, the relevant authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The procedure for appeals is as follows—

- (a) the undertaker must submit to the Secretary of State, a copy of the application submitted to the relevant authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
- (b) the undertaker must on the same day provide copies of the appeal documents to the relevant authority and the requirement consultee (if applicable);
- (c) within 28 days of receiving the appeals documents the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person must be sent;
- (d) the discharging authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within 10 business days beginning with the first day immediately following the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (e) the appeal parties may make any counter-submissions to the appointed person within 10 business days beginning with the first day immediately following the date of receipt of written representations pursuant to sub-paragraph (d) above; and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) If the appointed person considers that further information is necessary to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person.

(5) The appeal parties may submit written representations to the appointed person concerning matters contained in the further information.

(6) Any such representations must be submitted to the appointed person and made available to all appeal parties within 10 business days of the date mentioned in sub-paragraph (3).

### **Outcome of appeals**

**28.**—(1) On an appeal under requirement 27, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not), and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person under requirement 27. Been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(3) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review within 6 weeks of the date of the appointed person's decision.

(4) Any consent, agreement or approval given by the appointed person pursuant to this Schedule is deemed to be an approval for the purpose of Part 1 of Schedule 2 (Requirements) as if it had been given by the discharging authority.

(5) The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) does not affect or invalidate the effect of the appointed person's determination.

(6) Except where a direction is given pursuant to sub-paragraph (7) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person must be met by the undertaker.

(7) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction as to the costs of the appeal parties and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

### **Interpretation**

**29.** In this part;

“the appeal parties” means the discharging authority, the requirement consultee and the undertaker.

“discharging authority” means the body responsible for giving a consent, agreement or approval under this schedule; and

“requirement consultee” means any body named in a Requirement which is the subject of an appeal as a body to be consulted by the relevant authority in discharging that Requirement.

## SCHEDULE 3

### Streets subject to street works

#### PART 1

Articles 10 and 11

#### Streets subject to permanent street works

<i>(1) Area</i>	<i>(2) Streets subject to street works</i>	<i>(3) Description of the street works</i>
In the Borough of Cheshire West and Chester	Private roads being Grinsome Road, Perimeter Road and Elton Lane, Ash Road and unnamed road off Ash Road	Works for the installation and maintenance of access for Work No. 3 between the points marked 1-AA on sheet 1a and the points marked 1-A and 1-B and 1-C, 1-CC and 1-D on sheet 1 of the access rights of way plans
In the Borough of Cheshire West and Chester	Ince Lane	Works for the installation and maintenance of access for Work No. 5 between the points marked 2-G and 2-H on sheet 2 of the access rights of way plans
In the Borough of Cheshire West and Chester	Private roads being unnamed road off Pool Lane	Works for the installation and maintenance of access for Work No. 10 between points marked 3-D and 3-E on sheet 3 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Wervin Road	Works for the installation and maintenance of access for Work No. 17 between points marked 7-D and 7-E on sheet 7 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Station Road	Works for the installation and maintenance of access for Work Nos. 25 and 25A between points marked 10-AA and 10-BB on sheet 10 of the access and rights of way plans
In the County of Flintshire	Sealand Road	Works for the installation and maintenance of access for Work Nos. 30 and 30B between points marked 12-E and 12-F on sheet 12 of the access and rights of way plans
In the County of Flintshire	Deeside Lane	Works for the installation and maintenance of access for Work Nos. 30C and 31 between points marked 12-DD on sheet 12 and 13-AA on sheet 13 of the access and rights of way plans

In the County of Flintshire	Private road off B5129 (Flint Road)	Works for the installation and maintenance of access for Work No. 31B between points marked 14-I and 14-J on sheet 14 of the access and rights of way plans
In the County of Flintshire	Private road off Gladstone Way	Works for the installation and maintenance of access for Work Nos. 35 and 35A between points marked 16-M and 16-N on sheet 16 of the access and rights of way plans
In the County of Flintshire	Holywell Road	Works for the installation and maintenance of access for Work Nos. 41 and 41C between points marked 18-KK and 18-JJ on sheet 18 of the access and rights of way plans
In the County of Flintshire	Alt-Goch Lane	Works for the installation and maintenance of access for Work Nos. 48 and 49 between points marked 22-K and 22-L on sheet 22 of the access and rights of way plans

## PART 2

Article 10

### Streets subject to temporary street works

<i>(1) Area</i>	<i>(2) Streets subject to street works</i>	<i>(3) Description of the street works</i>
In the Borough of Cheshire West and Chester	A5117	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 2-I and 2-J on sheet 2 of the access and rights of way plans
In the Borough of Cheshire West and Chester	A5117	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 3-G and 3-H on sheet 3 of the access and rights of way plans
In the Borough of Cheshire West and Chester	B5132 (Cryers Lane)	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 4-A and 4-B on sheet 4 of the access and rights of way plans
In the Borough of Cheshire West and Chester	B5132 (Cryers Lane)	Works for the installation, use, maintenance and restoration of temporary access between points marked 4-E and 4-F on



		sheet 4 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Thornton Green Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 5-B and 5-C on sheet 5 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Unnamed private track off Halls Green Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 5-I and 5-J on sheet 5 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Unnamed private track off Ince Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 5-K and 5-L on sheet 5 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Picton Lane	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 6-F and 6-G on sheet 6 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Picton Lane	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 7-F and 7-G on sheet 7 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Caughall Road and Croughton Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 8-B and 8-C on sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Chorlton Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 8-G and 8-H on sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Unnamed private track off Stanney Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 8-L and 8-M on sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Chorlton Road	Works for the installation, use, maintenance and restoration of permanent access between points marked 8-N and 8-O on

		sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	A41 (Liverpool Road)	Works for the installation, use, maintenance and restoration of temporary access between points marked 9-AA and 9-BB on sheet 9 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Grove Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 10-C and 10-D on sheet 10 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Overwood Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 10-K and 10-L on sheet 10 of the access and rights of way plans
In the County of Cheshire West and Chester	Kingswood Lane (Byway Open to all Traffic 263/BY11/1)	Works for the installation, use, maintenance and restoration of temporary access between points marked 11-E and 11-F on sheet 11 of the access and rights of way plans
In the County of Flintshire	Sealand Road	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 13-E and 13-F on sheet 13 of the access and rights of way plans
In the County of Flintshire	Flint Road	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 14-A and 14-B on sheet 14 of the access rights of way plans
In the County of Flintshire	Unnamed private tracks off Flint Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 14-F, 14-G and 14-H on sheet 14 of the access and rights of way plans
In the County of Flintshire	Unnamed private tracks off Flint Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 14-HH on sheet 14 and 15-CC on sheet 15 of the access and rights of way plans
In the County of Flintshire	Unnamed private tracks off Chester Road	Works for the installation, use, maintenance and restoration of temporary access between

		points marked 15-A, 15-B, 15-C and 15-D on sheet 15 of the access and rights of way plans
In the County of Flintshire	Moor Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 15-I and 15-J on sheet 15 of the access and rights of way plans
In the County of Flintshire	Unnamed private road off Chester Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 15-K and 15-L on sheet 15 of the access rights of way plans
In the County of Flintshire	Chester Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 16-AA and 16-BB on sheet 16 of the access rights of way plans
In the County of Flintshire	Chester Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 16-BB and 16-CC on sheet 16 of the access rights of way plans
In the County of Flintshire	Chester Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 16-CC and 16-DD on sheet 16 of the access rights of way plans
In the County of Flintshire	Unnamed private track off Colliery Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 16-H and 16-I on sheet 16 of the access rights of way plans
In the County of Flintshire	Colliery Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 16-J and 16-K on sheet 16 of the access rights of way plans
In the County of Flintshire	Lower Aston Hall Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 17-C and 17-D on sheet 17 of the access rights of way plans
In the County of Flintshire	Lower Aston Hall Lane	Works for the installation, use, maintenance and restoration of temporary access between

		points marked 17-EE and 17-FF on sheet 17 of the access rights of way plans
In the County of Flintshire	Church Lane and unnamed private track off Old Aston Hill	Works for the installation, use, maintenance and restoration of temporary access between points marked 17-S on sheet 17 and 18-A on sheet 18 of the access rights of way plans
In the County of Flintshire	Shotton Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 18-B and 18-C on sheet 18 of the access rights of way plans
In the County of Flintshire	B5125 (Holywell Road)	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 18-G and 18-H on sheet 18 of the access and rights of way plans
In the County of Flintshire	Green Lane	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 18-R and 18-Q on sheet 18 of the access and rights of way plans
In the County of Flintshire	Pinfold Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 19-A and 19-B on sheet 19 of the access rights of way plans
In the County of Flintshire	Brookside Junction to B5125 Mini Roundabout	Works for the installation, use, maintenance and restoration of temporary access between points marked 19-FF and 19-GG on sheet 19 of the access and rights of way plans
In the County of Flintshire	Brookside Junction to B5125 Mini Roundabout	Works for the installation, use, maintenance and restoration of temporary access between points marked 19-H and 19-I on sheet 19 of the access and rights of way plans
In the County of Flintshire	Brookside and Brookside Terrace	Works for the installation, use, maintenance and restoration of temporary access between points marked 20-B, 20-C and 20-CC on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Works for the installation, use, maintenance and restoration of

		temporary access between points marked 20-DD and 20-EE on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Works for the installation, use, maintenance and restoration of temporary access between points marked 20-I and 20-J on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Works for the installation, use, maintenance and restoration of temporary access between points marked 20-N and 20-O on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Works for the installation, use, maintenance and restoration of temporary access between points marked 20-R and 20-S on sheet 20 of the access and rights of way plans
In the County of Flintshire	Starkey Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 21-D and 21-E on sheet 21 of the access and rights of way plans
In the County of Flintshire	Cornist Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 25-E and 25-F on sheet 25 of the access rights of way plans
In the County of Flintshire	B5121	Works for the installation, use, maintenance and restoration of temporary access between points marked 28-C and 28-D on sheet 28 of the access rights of way plans
In the County of Flintshire	Racecourse Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 29-C and 29-D on sheet 29 of the access rights of way plans

**SCHEDULE 4**  
New means of access

**PART 1**

New permanent means of access from the public highway

<i>(1) Area</i>	<i>(2) Street</i>	<i>(3) Description of relevant part of access</i>
In the Borough of Cheshire West and Chester	Wervin Road	Works for the installation, use and maintenance of a new access at a point marked 7-B on sheet 7 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Wervin Road	Works for the installation, use and maintenance of a new access at a point marked 7-C on sheet 7 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Station Road	Works for the installation, use and maintenance of a new access at the point marked 10-A on sheet 10 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Overwood Lane	Works for the installation, use and maintenance of a new access between points marked 11-A and 11-B on sheet 11 of the access and rights of way plans
In the County of Flintshire	Sealand Road	Works for the installation, use and maintenance of a new access at a point marked 12-C on sheet 12 of the access and rights of way plans
In the County of Flintshire	Lower Aston Hall Lane	Works for the installation, use and maintenance of a new access between points marked 17-A and 17-B on sheet 17 of the access and rights of way plans
In the County of Flintshire	Church Lane	Works for the installation, use and maintenance of a new access at a point marked 17-NN on sheet 17 of the access and rights of way plans
In the County of Flintshire	Station Road	Works for the installation, use and maintenance of a new access at a point marked 18-K on sheet 18 of the access and rights of way plans
In the County of Flintshire	Green Lane	Works for the installation, use and maintenance of a new access at a point marked 18-S

		on sheet 18 of the access and rights of way plans
In the County of Flintshire	Pinfold Lane	Works for the installation, use and maintenance of a new access at a point marked 19-C on sheet 19 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Works for the installation, use and maintenance of a new access between points marked 20-T and 20-Q on sheet 20 of the access and rights of way plans
In the County of Flintshire	Alt-Goch Lane	Works for the installation, use and maintenance of a new access between points marked 22-G and 22-H on sheet 22 of the access and rights of way plans
In the County of Flintshire	Cornist Lane	Works for the installation, use and maintenance of a new access between points marked 25-G and 25-H on sheet 25 of the access rights of way plans
In the County of Flintshire	B5121	Works for the installation, use and maintenance of a new access between points marked 28-A and 28-B on sheet 28 of the access rights of way plans
In the County of Flintshire	Racecourse Lane	Works for the installation, use and maintenance of a new access between points marked 29-A and 29-B on sheet 29 of the access rights of way plans

## PART 2

Article 16

### New temporary means of access from the public highway

<i>(1) Area</i>	<i>(2) Street</i>	<i>(3) Description of relevant part of access</i>
In the Borough of Cheshire West and Chester	Picton Lane	Works for the installation, use, maintenance and restoration of temporary access at the point marked 7-AA on sheet 7 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Croughton Road	Works for the installation, use, maintenance and restoration of temporary access at the point marked 8-K on sheet 8 of the access rights of way plans
In the County of Flintshire	Holywell Road	Works for the installation and maintenance of a new access at a point marked 18-J on sheet

		18 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Works for the installation and maintenance of a new access at a point marked 20-E on sheet 20 of the access and rights of way plans

### PART 3

Article 16 and 18

#### New private means of access

<i>(1) Area</i>	<i>(2) Street</i>	<i>(3) Description of relevant part of access</i>
In the Borough of Cheshire West and Chester	Private roads being Grinsome Road, Perimeter Road and Elton Lane	Access over existing private roads between the points marked 1-AA on sheet 1a and the points marked 1-A and 1-B on sheet 1 of the access rights of way plans
In the Borough of Cheshire West and Chester	Private roads being Ash Road and unnamed road off Ash Road	Access over existing private roads between the points marked 1-C, 1-CC and 1-D on sheet 1 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Private roads being unnamed road off Ash Road	Access over existing field access at the point marked 1-E on sheet 1 of the access rights of way plans
In the Borough of Cheshire West and Chester	Private roads being unnamed road off Ash Road	Access over a new access between the points marked 1-G to 1-H on sheet 1 of the access rights of way plans
In the Borough of Cheshire West and Chester	Ince Lane	Access over existing field access at the point marked 2-A on sheet 2 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Pool Lane	Access over existing private road between the points marked 3-D and 3-E on sheet 3 of the access rights of way plans
In the Borough of Cheshire West and Chester	A5117	Access over existing field access at the point marked 3-F on sheet 3 of the access rights of way plans
In the Borough of Cheshire West and Chester	B5132 (Cryers Lane)	Access over existing field access at the point marked 4-G on sheet 4 of the access rights of way plans
In the Borough of Cheshire West and Chester	Thornton Green Lane	Access over existing field access at the point marked 5-A on sheet 5 of the access rights of way plans



In the Borough of Cheshire West and Chester	Thornton Green Lane	Access over existing field access at the point marked 5-D on sheet 5 of the access rights of way plans
In the Borough of Cheshire West and Chester	B5132 (Cryers Lane)	Access over existing field access at the point marked 5-E on sheet 5 of the access rights of way plans
In the Borough of Cheshire West and Chester	Unnamed private track off Halls Green Lane	Access over existing field access at the point marked 5-F on sheet 5 of the access rights of way plans
In the Borough of Cheshire West and Chester	Picton Lane	Access over existing field access at the point marked 6-H on sheet 6 of the access rights of way plans
In the Borough of Cheshire West and Chester	Unnamed private track off Picton Lane	Access over existing private road between the points marked 6-I and 6-J on sheet 6 of the access rights of way plans
In the Borough of Cheshire West and Chester	Picton Lane	Access over existing track and field access at the point marked 7-A on sheet 7 of the access rights of way plans
In the County of Cheshire West and Chester	Wervin Road	Access over new field access at the point marked 7-B on sheet 7 of the access rights of way plans
In the Borough of Cheshire West and Chester	Wervin Road	Access over new field access at the point marked 7-C on sheet 7 of the access rights of way plans
In the Borough of Cheshire West and Chester	Caughall Road and Croughton Road	Access over existing field access at the point marked 8-D on sheet 8 of the access rights of way plans
In the Borough of Cheshire West and Chester	Chorlton Lane	Access over existing field access at the point marked 8-E on sheet 8 of the access rights of way plans
In the Borough of Cheshire West and Chester	Chorlton Lane	Access over existing field access at the point marked 8-F on sheet 8 of the access rights of way plans
In the Borough of Cheshire West and Chester	Chorlton Lane	Access over existing field access between the points marked 8-I and 8-J on sheet 8 of the access rights of way plans
In the Borough of Cheshire West and Chester	A41 (Liverpool Road)	Access over existing field access at the point marked 9-B on sheet 9 of the access rights of way plans

In the Borough of Cheshire West and Chester	Station Road	Access over a new access at a point marked 10-A on sheet 10 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Station Road	Access over existing field access at the point marked 10-B on sheet 10 of the access rights of way plans
In the Borough of Cheshire West and Chester	A41 (Liverpool Road)	Access over existing field access at the point marked 10-E on sheet 10 of the access rights of way plans
In the Borough of Cheshire West and Chester	Townfield Lane	Access over existing field access at the point marked 10-H on sheet 10 of the access rights of way plans
In the Borough of Cheshire West and Chester	Townfield Lane	Access over existing field access at the point marked 10-I on sheet 10 of the access rights of way plans
In the County of Cheshire West and Chester	Overwood Lane	Access over existing field access at the point marked 10-J on sheet 10 of the access rights of way plans
In the County of Cheshire West and Chester	Overwood Lane	Access over a new access between points marked 11-A and 11-B on sheet 11 of the access and rights of way plans
In the Borough of Cheshire West and Chester	A540 (Parkgate Road)	Access over existing field access at the point marked 11-D on sheet 11 of the access rights of way plans
In the Borough of Cheshire West and Chester	Hermitage Road	Access over existing field access at the point marked 12-A on sheet 12 of the access rights of way plans
In the Borough of Cheshire West and Chester	Hermitage Road	Access over existing field access at the point marked 12-B on sheet 12 of the access rights of way plans
In the County of Flintshire	Sealand Road	Access over a new access at a point marked 12-C on sheet 12 of the access and rights of way plans
In the County of Flintshire	Deeside Lane	Access over existing private road between the point marked 12-D on sheet 12 and point 13-AA on sheet 13 of the access rights of way plans
In the County of Flintshire	Deeside Lane	Access over existing field access at the point marked 13-B on sheet 13 of the access rights of way plans
In the County of Flintshire	Deeside Lane	Access over existing field access at the point marked 13-

		C on sheet 13 of the access rights of way plans
In the County of Flintshire	Private road off B5129 (Flint Road)	Access over existing private road between the points marked 14-C and 14-D on sheet 14 of the access rights of way plans
In the County of Flintshire	Private road off B5129 (Flint Road)	Access over new field access between the points marked 14-D and 14-DD on sheet 14 of the access rights of way plans
In the County of Flintshire	Chester Road	Access over existing field access at the point marked 15-C on sheet 15 of the access rights of way plans
In the County of Flintshire	Moor Lane	Access over existing field access at the point marked 15-H on sheet 15 of the access rights of way plans
In the County of Flintshire	Unnamed private road off Chester Road	Access over existing private road and field access between the points marked 15-K and 15-M on sheet 15 of the access rights of way plans
In the County of Flintshire	Unnamed private road off Chester Road	Access over existing private road and field access between the points marked 15-K and 15-N on sheet 15 of the access rights of way plans
In the County of Flintshire	Chester Road	Access over existing field access at the point marked 16-B on sheet 16 of the access rights of way plans
In the County of Flintshire	Chester Road	Access over existing field access at the point marked 16-C on sheet 16 of the access rights of way plans
In the County of Flintshire	Willow Lane	Access over existing field access at the point marked 16-E on sheet 16 of the access rights of way plans
In the County of Flintshire	Colliery Lane	Access over existing field access at the point marked 16-KK on sheet 16 of the access rights of way plans
In the County of Flintshire	Gladstone Way	Access over new field access at the point marked 16-L on sheet 16 of the access rights of way plans
In the County of Flintshire	Lower Aston Hall Lane	Access over a new access between points marked 17-A and 17-B on sheet 17 of the access and rights of way plans
In the County of Flintshire	Lower Aston Hall Lane	Access over existing field access at the point marked 17-

		E on sheet 17 of the access rights of way plans
In the County of Flintshire	Church Lane	Access over private road between the points marked 17-N and 17-NN, and over new field access at the point marked 17-NN on sheet 17 of the access rights of way plans
In the County of Flintshire	Aston Hill	Access over a new access at a point marked 17-R on sheet 17 of the access and rights of way plans
In the County of Flintshire	Shotton Lane	Access over existing field access at the point marked 18-D on sheet 18 of the access rights of way plans
In the County of Flintshire	Shotton Lane	Access over existing field access at the point marked 18-E on sheet 18 of the access rights of way plans
In the County of Flintshire	B5125 (Holywell Road)	Access over a new field access at the point marked 18-K on sheet 18 of the access rights of way plans
In the County of Flintshire	Green Lane	Access over existing field access at the point marked 18-L on sheet 18 of the access rights of way plans
In the County of Flintshire	Green Lane	Access over existing field access at the point marked 18-P on sheet 18 of the access rights of way plans
In the County of Flintshire	Green Lane	Access over new field access at the point marked 18-S on sheet 18 of the access rights of way plans
In the County of Flintshire	Pinfold Lane	Access over a new access at a point marked 19-C on sheet 19 of the access and rights of way plans
In the County of Flintshire	Pinfold Lane	Access over an existing access at a point marked 19-CC on sheet 19 of the access and rights of way plans
In the County of Flintshire	Brookside Junction to B5125 Mini Roundabout	Access over existing access at a point marked 19-G on sheet 19 of the access and rights of way plans
In the County of Flintshire	Brookside	Access over existing access at a point marked 20-A on sheet 20 of the access and rights of way plans
In the County of Flintshire	Brookside Terrace	Access over existing access at a point marked 20-D on sheet

		20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Access over a new access between points marked 20-T and 20-Q on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Access over existing field access at the point marked 20-K on sheet 20 of the access rights of way plans
In the County of Flintshire	Connah's Quay Road	Access over existing field access at the point marked 20-L on sheet 20 of the access rights of way plans
In the County of Flintshire	Connah's Quay Road	Access over existing field access at the point marked 20-M on sheet 20 of the access rights of way plans
In the County of Flintshire	Starkey Lane	Access over existing field access at the point marked 21-F on sheet 21 of the access rights of way plans
In the County of Flintshire	Alt-Goch Lane	Access over existing field access at the point marked 22-E on sheet 22 of the access rights of way plans
In the County of Flintshire	Alt-Goch Lane	Access over existing field access at the point marked 22-F on sheet 22 of the access rights of way plans
In the County of Flintshire	Alt-Goch Lane	Access over a new access between points marked 22-G and 22-H on sheet 22 of the access and rights of way plans
In the County of Flintshire	Alt-Goch Lane	Access over existing field access at the point marked 22-M on sheet 22 of the access rights of way plans
In the County of Flintshire	Cornist Lane	Access over new field access between points marked 25-G and 25-H on sheet 25 of the access rights of way plans
In the County of Flintshire	B5121	Access over new field access between points marked 28-A and 28-B on sheet 28 of the access rights of way plans
In the County of Flintshire	Racecourse Lane	Access over new field access between points marked 29-A and 29-B on sheet 29 of the access rights of way plans

## SCHEDULE 5

Article 15

### Streets to be temporarily stopped up or restricted

<i>(1) Area</i>	<i>(2) Street</i>	<i>(3) Description of temporary stopping up etc.</i>
In the Borough of Cheshire West and Chester	Private roads being Grinsome Road, Perimeter Road and Elton Lane, Ash Road and unnamed road off Ash Road	Temporary full width closure to all traffic between the points marked 1-AA on sheet 1a and the points marked 1-A and 1-B and 1-C, 1-CC and 1-D on sheet 1 of the access rights of way plans
In the Borough of Cheshire West and Chester	Ince Lane	Temporary closure of the verge and reduction in carriageway width with traffic management measures between the points marked 2-G and 2-H on sheet 2 of the access rights of way plans
In the Borough of Cheshire West and Chester	A5117	Temporary closure of the verge and reduction in carriageway width with traffic management measures between points marked 2-I and 2-J on sheet 2 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Private roads being unnamed road off Pool Lane	Temporary full width closure to all traffic between points marked 3-D and 3-E on sheet 3 of the access and rights of way plans
In the Borough of Cheshire West and Chester	A5117	Temporary partial width closure to all traffic with traffic management measures between points marked 3-G and 3-H on sheet 3 of the access and rights of way plans
In the Borough of Cheshire West and Chester	B5132 (Cryers Lane)	Partial width closure to all traffic with traffic management measures between points marked 4-A and 4-B on sheet 4 of the access and rights of way plans
In the Borough of Cheshire West and Chester	B5132 (Cryers Lane)	Temporary full width closure to all traffic between points marked 4-E and 4-F on sheet 4 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Thornton Green Lane	Temporary full width closure to all traffic between points marked 5-B and 5-C on sheet 5 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Unnamed private track off Halls Green Lane	Temporary full width closure to all traffic between points

		marked 5-I and 5-J on sheet 5 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Unnamed private track off Ince Lane	Temporary full width closure to all traffic between points marked 5-K and 5-L on sheet 5 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Picton Lane	Temporary full width closure to all traffic between points marked 6-F and 6-G on sheet 4 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Wervin Road	Temporary partial width closure to all traffic with traffic management measures between points marked 7-D and 7-E on sheet 7 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Picton Lane	Temporary full width closure to all traffic between points marked 7-F and 7-G on sheet 7 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Caughall Road and Croughton Road	Temporary full width closure to all traffic between points marked 8-B and 8-C on sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Chorlton Lane	Temporary full width closure to all traffic between points marked 8-G and 8-H on sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Unnamed farm track off Stanney Lane	Temporary full width closure to all traffic between points marked 8-L and 8-M on sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Chorlton Road	Temporary full width closure to all traffic between points marked 8-N and 8-O on sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	A41	Temporary partial width closure to all traffic with traffic management measures between points marked 9-AA and 9-BB on sheet 9 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Station Road	Temporary partial width closure to all traffic with traffic management measures between points marked 10-AA

		and 10-BB on sheet 10 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Grove Road	Temporary full width closure to all traffic between points marked 10-C and 10-D on sheet 10 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Overwood Lane	Temporary partial width closure to all traffic with traffic management measures between points marked 10-K and 10-L on sheet 10 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Kingswood Lane (Byway Open to all Traffic 263/BY11/1)	Temporary full width closure to all traffic between points marked 11-E and 11-F on sheet 11 of the access and rights of way plans
In the County of Flintshire	Sealand Road	Temporary partial width closure to all traffic with traffic management measures between points marked 12-E and 12-F on sheet 12 of the access and rights of way plans
In the County of Flintshire	Deeside Lane	Temporary partial width closure to all traffic with traffic management measures between points marked 12-DD on sheet 12 and 13-AA on sheet 13 of the access and rights of way plans
In the County of Flintshire	Deeside Lane	Temporary full width closure to all traffic between points marked 13-A and 13-AA on sheet 13 of the access and rights of way plans
In the County of Flintshire	Sealand Road	Temporary partial width closure to all traffic with traffic management measures between points marked 13-E and 13-F on sheet 13 of the access and rights of way plans
In the County of Flintshire	Flint Road	Temporary closure of the verge and reduction in carriageway width with traffic management measures between points marked 14-A and 14-B on sheet 14 of the access rights of way plans
In the County of Flintshire	Unnamed private tracks off Flint Road	Temporary full width closure to all traffic between points marked 14-F, 14-G and 14-H on sheet 14 of the access and rights of way plans
In the County of Flintshire	Private road off B5129 (Flint Road)	Temporary full width closure to all traffic between points



		marked 14-I and 14-J on sheet 14 of the access and rights of way plans
In the County of Flintshire	Unnamed private tracks off Chester Road	Temporary full width closure to all traffic between points marked 14-HH on sheet 14 and 15-CC on sheet 15 of the access and rights of way plans
In the County of Flintshire	Unnamed private tracks off Chester Road	Temporary full width closure to all traffic between points marked 15-A, 15-B and 15-C and 15-D on sheet 15 of the access and rights of way plans
In the County of Flintshire	Moor Lane	Temporary full width closure to all traffic between points marked 15-I and 15-J on sheet 15 of the access and rights of way plans
In the County of Flintshire	Unnamed private road off Chester Road	Temporary full width closure to all traffic between points marked 15-K and 15-L on sheet 15 of the access rights of way plans
In the County of Flintshire	Chester Road	Temporary partial width closure to all traffic with traffic management measures between points marked 16-AA and 16-BB on sheet 16 of the access rights of way plans
In the County of Flintshire	Chester Road	Temporary partial width closure to all traffic with traffic management measures between points marked 16-BB and 16-CC on sheet 16 of the access rights of way plans
In the County of Flintshire	Chester Road	Temporary partial width closure to all traffic with traffic management measures between points marked 16-CC and 16-DD on sheet 16 of the access rights of way plans
In the County of Flintshire	Unnamed private track off Colliery Lane	Temporary full width closure to all traffic between points marked 16-H and 16-I on sheet 16 of the access rights of way plans
In the County of Flintshire	Colliery Lane	Temporary full width closure to all traffic between points marked 16-J and 16-K on sheet 16 of the access rights of way plans
In the County of Flintshire	Private road off Gladstone Way	Temporary full width closure to all traffic between points marked 16-M and 16-N on

		sheet 16 of the access and rights of way plans
In the County of Flintshire	Lower Aston Hall Lane	Temporary full width closure to all traffic between points marked 17-C and 17-D on sheet 17 of the access rights of way plans
In the County of Flintshire	Lower Aston Hall Lane	Temporary closure of the verge and reduction in carriageway width with traffic management measures between points marked 17-EE and 17-FF on sheet 17 of the access rights of way plans
In the County of Flintshire	Church Lane	Temporary suspension of parking between the points marked 17-N and 17-NN, on sheet 17 of the access rights of way plans
In the County of Flintshire	Church Lane and unnamed private track off Old Aston Hill	Temporary full width closure to all traffic between points marked 17-S on sheet 17 and 18-A on sheet 18 of the access rights of way plans
In the County of Flintshire	Shotton Lane	Temporary full width closure to all traffic between points marked 18-B and 18-C on sheet 18 of the access rights of way plans
In the County of Flintshire	B5125 (Holywell Road)	Temporary partial width closure to all traffic with traffic management measures between points marked 18-G and 18-H on sheet 18 of the access and rights of way plans
In the County of Flintshire	Holywell Road	Temporary partial width closure to all traffic with traffic management measures between points marked 18-KK and 18-JJ on sheet 18 of the access and rights of way plans
In the County of Flintshire	Green Lane	Temporary full width closure to all traffic between points marked 18-R and 18-Q on sheet 18 of the access and rights of way plans
In the County of Flintshire	Pinfold Lane	Temporary full width closure to all traffic between points marked 19-A and 19-B on sheet 19 of the access and rights of way plans
In the County of Flintshire	Brookside Junction to B5125 Mini Roundabout	Temporary full width closure to all traffic between points marked 19-FF and 19-GG on sheet 19 of the access and rights of way plans

In the County of Flintshire	Brookside Junction to B5125 Mini Roundabout	Temporary full width closure to all traffic between points marked 19-H and 19-I on sheet 19 of the access and rights of way plans
In the County of Flintshire	Brookside and Brookside Terrace	Temporary full width closure to all traffic between points marked 20-B, and 20-C and 20-CC on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Temporary full width closure to all traffic between points marked 20-DD and 20-EE on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Temporary full width closure to all traffic] between points marked 20-I and 20-J on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Temporary partial width closure to all traffic with traffic management measures between points marked 20-N and 20-O on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Temporary full width closure to all traffic between points marked 20-R and 20-S on sheet 20 of the access and rights of way plans
In the County of Flintshire	Starkey Lane	Temporary full width closure to all traffic between points marked 21-D and 21-E on sheet 21 of the access and rights of way plans
In the County of Flintshire	Alt-Goch Lane	Temporary partial width closure to all traffic with traffic management measures between points marked 22-K and 22-L on sheet 22 of the access and rights of way plans
In the County of Flintshire	Cornist Lane	Temporary partial width closure to all traffic with traffic management measures between points marked 25-E and 25-F on sheet 25 of the access rights of way plans
In the County of Flintshire	B5121	Temporary partial width closure to all traffic with traffic management measures between points marked 28-C and 28-D on sheet 28 of the access rights of way plans

In the County of Flintshire	Racecourse Lane	Temporary full width closure to all traffic between points marked 29-C and 29-D on sheet 29 of the access rights of way plans
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## SCHEDULE 6

Articles 13 and 14

### Public rights of way to be temporarily restricted and stopped up

#### PART 1

#### Public rights of way to be temporarily restricted

<i>(1) Area</i>	<i>(2) Public right of way</i>	<i>(3) Extent of restriction (being closure to all use)</i>
In the Borough of Cheshire West and Chester	123/FP3/1	Between the points marked 2-E and 2-F on sheet 2 of the access and rights of way plans shown with a dashed orange line
In the Borough of Cheshire West and Chester	294/FP2/1 and 123/FPS/1	Between the points marked 4-H and 4-I, and 4-K and 4-J on sheet 4 of the access and rights of way plans shown with a dashed orange line
In the Borough of Cheshire West and Chester	318/FP1/1	Between the points marked 5-G and 5-H on sheet 5 of the access and rights of way plans shown with a dashed orange line
In the Borough of Cheshire West and Chester	309/FP1/2	Between the points marked 6-A and 6-B on sheet 6 of the access and rights of way plans shown with a dashed orange line
In the Borough of Cheshire West and Chester	309/FP3/1 and 241/FP6/2	Between the points marked 6-C and 6-D on sheet 6 of the access and rights of way plans shown with a dashed orange line
In the Borough of Cheshire West and Chester	211/FP4/1	Between the points marked 10-F and 10-G on sheet 10 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 308/1 and Footpath 307/3	Between the points marked 15-E and 15-F on sheet 15 of the access and rights of way plans shown with a dashed orange line

In the County of Flintshire	Footpath 308/1/10	Between the points marked 15-E and 15-G on sheet 15 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 308/4 and Footpath 303/44	Between the points marked 15-O and 15-P on sheet 15 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Chester Road	Between the points marked 16-AA and 16-DD on sheet 16 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 303/32	Between the points marked 16-F and 16-G on sheet 16 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 303/30	Between the points marked 17-AA and 17-BB on sheet 17 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 303/34	Between the points marked 17-G and 17-H on sheet 17 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 303/26	Between the points marked 17-J and 17-K on sheet 17 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 303/25	Between the points marked 17-M and 17-MM on sheet 17 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 303/22 and Footpath 303/24	Between the points marked 17-P and 17-Q on sheet 17 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 303/20	Between the points marked 18-I and 18-II on sheet 18 of the access and rights of way plans shown
In the County of Flintshire	Footpath 303/143 and Footpath 303/21	Between the points marked 18-J and 18-T, 18-K and 18-L on sheet 18 of the access and rights of way plans shown
In the County of Flintshire	Footpath 303/141	Between the points marked 18-M and 18-N on sheet 18 of the access and rights of way plans

		shown with a dashed orange line
In the County of Flintshire	Footpath 414/39	Between the points marked 19-DD and 19-E on sheet 19 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 414/4	Between the points marked 20-F and 20-FF on sheet 20 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 414/2	Between the points marked 20-P on sheet 20 and 21-AA on sheet 21 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 414/1	Between the points marked 21-A and 21-B on sheet 21 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 404/70	Between the points marked 22-A and 22-B on sheet 22 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 404/68	Between the points marked 22-B and 22-C on sheet 22 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 404/66	Between the points marked 22-I and 22-J on sheet 22 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 404/39	Between the points marked 25-I and 25-J on sheet 25 of the access and rights of way plans shown with a dashed orange

## PART 2

### Public rights of way to be stopped up

<i>Area</i>	<i>(2) Public right of way</i>	<i>(3) Extent of Stopping up</i>	<i>(4) Alternative route</i>
In the County of Flintshire	Footpath 414/39A	Between the points marked 19-D and 19-DD on sheet 19 of the access and rights of way plans shown with a dashed purple line	Between the points marked 19-D and 19-DD on sheet 19 of the access and rights of way plans

## SCHEDULE 7

Article 35

### Land of which only temporary possession may be taken

#### PART 1

##### Land of which only temporary possession may be taken

<i>(1) Area</i>	<i>(2) Number of plot shown on land plans</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>(4) Relevant part of authorised development</i>
Cheshire and Chester West	1-05	Temporary use as a construction working area and for access (as part of Work No.3)	Work Nos 1, 2, 3, 3A, 3B 4 and 5
Cheshire and Chester West	1-06d	Temporary use as a construction access (Work No.3A)	Work Nos 1, 2, 3, 3A, 3B, 4 and 5
Cheshire and Chester West	1-08	Temporary use as a construction compound and working area (as part of Work No.1A)	Work Nos 1, 2, 3, 4 and 5
Cheshire and Chester West	1-16, 1-17	Temporary use as construction access (as part of Work No.3)	Work Nos 1, 2, 3, 4 and 5
Cheshire and Chester West	2-02	Temporary use as a construction working area and for access to facilitate construction (as part of Work No.5C)	Work Nos 2, 3, 4 and 5
Cheshire and Chester West	2-04	Temporary use as a construction access (as part of Work No.5C)	Work Nos 2, 3, 4, 5 and 6
Cheshire and Chester West	2-07	Temporary use as a construction access (as part of Work No.5A)	Work Nos 2, 3, 4, 5 and 6
Cheshire and Chester West	2-11, 2-12	Temporary use a construction access (as part of Work No.5B)	Work Nos 2, 3, 4, 5 and 6
Cheshire and Chester West	3-01	Temporary use as a construction access (Work No. 6C)	Work Nos 4, 5, 6, 7 and 11
Cheshire and Chester West	3-02	Temporary use as a construction compound and working area (as part of Work No. 6B)	Work Nos 4, 5, 6, 7, 11, 57A and 57B
Cheshire and Chester West	4-01, 4-02	Temporary use as a construction compound and working area (as part of Work No. 6B)	Work Nos 4, 5, 6, 7, 11, 57A and 57B
Cheshire and Chester West	4-03, 4-04	Temporary use for a construction access including visibility splay (as part of Work No. 6D)	Work Nos 4, 5, 6, 7, 11, 57A and 57B
Cheshire and Chester West	4-11	Temporary use as a construction access (Work No. 6E)	Work Nos 4, 5, 6, 7, 11, 57A and 57B
Cheshire and Chester West	5-03, 5-04	Temporary use as a construction access (as part of Work No 12)	Work Nos 11, 12, 13, 14, 57C and 57D
Cheshire and Chester West	5-19, 5-21, 5-24, 5-25, 5-26, 6-11, 6-13	Temporary use for access and peat storage	Work Nos 13, 13A, 14, 57E and 57F
Cheshire and Chester West	6-20	Temporary use as a construction compound and working area (as part of Work No. 15A)	Work Nos 14, 15 and 16

Cheshire and Chester West	6-21	Temporary use as a construction access (Work No.15B)	Work Nos 14, 15 and 16
Cheshire and Chester West	7-02, 7-02a, 7-03b	Temporary use as a construction access (Work No.16B)	Work No. 16A
Cheshire and Chester West	7-10	Temporary use as a working area (as part of Work No. 17)	Work No. 17
Cheshire and Chester West	8-02	Temporary use as a construction working area and access (Work No. 18A)	Work Nos. 17, 18, 19, 19A, 20 and 21
Cheshire and Chester West	8-06, 8-08	Temporary use as a construction working area (Work No. 18)	Work Nos. 18, 19, 19A, 20 and 21
Cheshire and Chester West	8-09	Temporary use as a construction access, compound and working area (Work Nos.19A and 19B)	Work Nos. 17, 18, 19, 19A, 20 and 21
Cheshire and Chester West	8-14	Temporary use as a construction access (Work No. 19C)	Work Nos. 20 and 21
Cheshire and Chester West	9-02, 9-05, 9-06, 9-08, 9-11, 9-13	Temporary use as a construction access and working area (as part of Work No. 22)	Work Nos. 19, 22, 23, 24 and 57G
Cheshire and Chester West	9-18	Temporary use as a construction access (Work No. 23A)	Work Nos. 19, 22, 23 and 24
Cheshire and Chester West	9-20	Temporary use as a construction access and working area (as part of Work No. 23B)	Work Nos. 22, 23 and 24
Cheshire and Chester West	9-23	Temporary use as a construction access (as part of Work No.24A)	Work Nos. 24 and 25
Cheshire and Chester West	10-04a	Temporary possession for traffic management	Work No. 25
Cheshire and Chester West	10-14 10-15	Temporary use as a construction access (as part of Work No.25)	Work Nos. 25, 26, 27, 28
Cheshire and Chester West	10-17	Temporary use as a construction access (Work No.28A)	Work Nos. 25, 26, 26A, 27, 28, 28A, 28B
Cheshire and Chester West	10-19	Temporary use as a construction access and working area (as part of Work Nos.25, 26, 26A and 27)	Work Nos. 25, 26, 26A, 27 and 28
Cheshire and Chester West	11-01, 11-02	Temporary use as a construction access (Work No.28A)	Work Nos. 25, 26, 26A, 27, 28, 28A, 28B
Flintshire	12-12a, 12-13	Temporary use as a construction compound and working area (as part of Work Nos. 29A and 30A)	Work Nos. 28, 29, 29A, 30 and 30A
Flintshire	12-15, 12-16, 12-17	Temporary use as a construction access (Works No.30 and 30A)	Work Nos. 28, 29, 29A, 30 and 30A
Flintshire	13-14, 13-16	Temporary use as a construction compound and working area (as part of Work No. 30D)	Work Nos. 30 and 31
Flintshire	13-19	Temporary use as a construction access (as part of Work No.30E)	Work Nos. 30 and 31
Flintshire	14-01	Temporary use as a construction compound and working area (as part of Work No. 30D)	Work Nos. 30 and 31
Flintshire	14-14	Temporary use as a construction compound and working area (as part of Work Nos. 31A and 31B)	Work Nos. 30, 31, 32 and 33



Flintshire	14-23, 14-24, 14-25, 14-26, 14-27	Temporary use as a construction access and working area (as part of Work No. 31B)	Work Nos. 30, 31, 31A, 32 and 33
Flintshire	14-30a, 15-01a	Temporary use as a construction access (as part of Work No.33)	Work No. 33
Flintshire	15-02	Temporary use as a construction access and working area (as part of Work No.33)	Work Nos.32, 33 and 33A
Flintshire	16-01, 16-06, 16-06a, 16-07, 16-08, 16-09, 16-11	Temporary use as a construction access and working area, and for diversion of public right of way and watercourse (as part of Work No. 34)	Work Nos. 33 and 34
Flintshire	16-17	Temporary use as a working area (as part of Work No. 34)	Work Nos. 34 and 35
Flintshire	16-28	Temporary use as a construction working area and access (Work No.35)	Work Nos. 35, 36, 36A and 37
Flintshire	17-05	Temporary use as a construction access and working area (as part of Work Nos. 35 and 36A)	Work Nos. 35, 36, 36A and 37
Flintshire	17-09, 17-10	Temporary use as a construction access (Work No.38A)	Work Nos. 35, 36, 36A and 37
Flintshire	17-11	Temporary use as a working area (as part of Work No. 38)	Work Nos. 37 and 38
Flintshire	17-16	Temporary use as a construction working area and access (as part of Work No.39B)	Work Nos. 38, 39, 40 and 57H
Flintshire	17-31	Temporary use as a construction access (Work No.39A)	Work Nos. 39, 40 and 57H
Flintshire	17-35, 17-37, 17-38	Temporary use as a construction access and working area (Work No. 40A)	Work Nos. 39, 40 and 57H
Flintshire	18-01	Temporary use as a working area, access and public right of way diversion (as part of Work No. 40B)	Work Nos.40, 41 and 57I
Flintshire	18-13	Temporary use as a construction compound, working area and access (as part of Work Nos. 41A and 41B)	Work Nos. 40, 41, 42 and 57I
Flintshire	18-16, 18-17	Temporary use as a construction access and visibility splay (as part of Work No.41B)	Work Nos. 40, 41, 42 and 57I
Flintshire	19-04c	Temporary use as a working area (as part of Work No. 43D)	Work Nos. 42, 43, 57J and 57K
Flintshire	20-07	Temporary use as a working area (as part of Work No. 44)	Work Nos. 44 and 57L
Flintshire	20-10, 20-10a	Temporary use as a construction access (as part of Work No.44B)	Work Nos. 44, 44A, 45, 46, 57L and 57M
Flintshire	20-16, 20-17	Temporary use as a construction access (as part of Work No.46)	Work Nos. 44, 44A, 45 and 46
Flintshire	20-19b	Temporary use as a construction access (as part of Work No.45)	Work Nos. 44, 45 and 45B

Flintshire	20-20	Temporary use as a construction compound and working area (as part of Work Nos. 44C and 45A)	Work Nos. 44, 44A, 45, 46, 57L and 57M
Flintshire	21-03	Temporary use as a construction access (Work No.47A)	Work No. 47
Flintshire	21-07	Temporary use as a construction access (Work No.47B)	Work No. 47 and 48
Flintshire	22-02	Temporary use as a working area and access (as part of Work No. 47)	Work Nos. 47 and 48
Flintshire	22-04	Temporary use for and to construct an access (Work No.49)	Work No. 47, 48 and 49
Flintshire	25-03, 25-07, 25-08, 25-09	Temporary use as a working area (as part of Work Nos. 51a, 51B and 52)	Work Nos. 51, 51A and 52
Flintshire	27-02, 28-01	Temporary use as a working area (as part of Work Nos. 53A and 53B)	Work Nos. 53, 53A and 54
Flintshire	28-02	Temporary use for and to construct an access (Work No.54)	Work Nos. 53, 53A and 54
Flintshire	29-01	Temporary use for and to construct an access (Work No.56)	Work Nos. 55, 55A and 56
Flintshire	29-02	Temporary use as a working area (as part of Work No. 55B)	Work Nos. 55, 55A and 56
Flintshire	29-06	Temporary use as a working area (as part of Work Nos. 55A and 55B)	Work Nos. 55, 55A and 56

## PART 2

### Land of which only temporary possession for access may be taken

<i>(1) Area</i>	<i>(2) Number of plot shown on land plans</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>(4) Relevant part of authorised development</i>
Cheshire and Chester West	2-06	Temporary use for access (as part of Work No.5A)	Work Nos 2, 3, 4, 5 and 6
Cheshire and Chester West	9-24, 9-25	Temporary use as a construction access (as part of Work No.24A)	Work Nos. 24 and 25
Flintshire	13-13, 13-15, 13-17, 13-18, 14-02, 14-03	Temporary use as a construction access (as part of Work No.30E)	Work Nos. 30, 30D 31, 31A, 32 and 33
Flintshire	17-34	Temporary use for access (as part of Work No.40)	Work Nos. 39, 39A, 40, 40A, 41, 57H and 57I
Flintshire	19-06	Temporary use as a construction access (as Work No.43C)	Work Nos. 42, 43, 44, 57J and 57K

## SCHEDULE 8

Article 27

### Land in which only new rights etc., may be acquired

<i>(1) Number of plot shown on land plans</i>	<i>(2) Purpose for which rights may be acquired</i>
1-01	<p><b>1.</b> Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <p>(a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and replacing the authorised development, the inspection, testing, maintenance, renewal, upgrading, replacement and removal of the pipeline and connection into any adjacent pipeline and associated works, to take plant and equipment on to adjoining land;</p> <p>(b) make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights;</p> <p>(c) use, maintain and improve a means of access including visibility splays, and retain, maintain, repair, alter, upgrade and use existing access routes for the purposes of accessing the Land, adjoining land and highway;</p> <p>(d) install, alter, re-lay, maintain, protect, adjust, operate or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus, public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers and pipes, cables or conduits or apparatus to serve the authorised development);</p> <p>(e) construct, lay down, use and remove temporary access roads or road surfacing including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal of any drainage work is being carried out;</p> <p>(f) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary barriers for the protection of fauna; and</p> <p>(g) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land in accordance with any necessary licences relating to protected species and/or wildlife.</p> <p><b>2.</b> A restrictive covenant over the Land for the benefit of the remainder of the Order land to prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or telecommunications through the cables ancillary to the pipeline, or support for the authorised development.</p>
1-01a	
1-02	
1-03	
1-04	
1-06	
1-06a	
1-06b	
1-06c	
1a-01	
1a-02	
1a-03	
1a-04	
12-21	
13-01	
13-02	
13-03	
13-04	
13-05	
13-06	
13-10	
13-11	
14-21	
14-22	
3-04	<p><b>1.</b> Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <p>(a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and replacing the authorised development, the</p>
3-05	
3-06	
3-07	
3-08	
3-09	

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- inspection, testing, maintenance, renewal, upgrading, replacement and removal of the pipeline and connection into any adjacent pipeline and associated works, to take plant and equipment on to adjoining land;
- (b) make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights;
  - (c) maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the Land, adjoining land and highway;
  - (d) install, alter, re-lay, maintain, protect, adjust, operate or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus, public and private drains, connections to watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers and pipes, cables or conduits or apparatus to serve the authorised development);
  - (e) remove and discharge water from the Land and to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, to lay down, install, adjust, alter, construct, create, use, maintain, repair, renew, upgrade, inspect, remove and replace a drainage scheme on the Land (the “drainage works”);
  - (f) inspect, use mechanical excavation (including directional drilling and/or digging), reinstate, remove, move or alter such part or parts of any drainage system on the Land for the purposes of the drainage works (including connecting the drainage works to any land drain as at the date of the drainage works);
  - (g) place and use plant, machinery, structures and temporary structures within the Land, and to erect temporary signage and provide measures for the benefit of public and personnel safety for the purposes of the drainage works;
  - (h) make such investigations in or on the Land as required for the purposes of the drainage works;
  - (i) use or resort to trenchless installation techniques including (but not limited to) directional drilling in connection with the drainage works;
  - (j) erect fencing, gates, walls, barriers or other means of enclosure, and create secure works areas or compounds including temporary trenchless installation technique compounds and working areas for the purposes of the drainage works;
  - (k) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal of any drainage work is being carried out;
  - (l) fell, lop or cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be standing on the Land or other land which would if not felled, lopped, cut or removed obstruct or interfere with the drainage works;
  - (m) retain, repair, improve, renew, remove, relocate and plant trees, shrubs, and hedgerows, to effect landscaping works and other environmental and ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping;
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- (n) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna; and
- (o) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land in accordance with any necessary licences relating to protected species and/or wildlife.

2. A restrictive covenant over the Land for the benefit of the remainder of the Order land to:

- (p) prevent any activity being undertaken on the Land which would interfere with the vertical or lateral support of the Pipeline;
- (q) prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or telecommunications through the cables ancillary to the pipeline, or support for the authorised development;
- (r) prevent, without the written consent of the undertaker, the carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development; and
- (s) prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of the drainage works, ecological mitigation areas or areas of habitat creation including any ploughing or grazing without the prior written consent of the undertaker.

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1-21 2-02a 2-04a 5-08 6-27 7-02b 7-03 7-03a 11-07 12-04 12-06 14-11 14-14a 14-20 15-02a 15-09 15-10 15-14 16-28a 16-29 16-30 17-17 17-18 17-19 20-09	<p><b>1.</b> Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</p> <ul style="list-style-type: none"> <li>(a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and replacing the authorised development, the inspection, testing, maintenance, renewal, upgrading, replacement and removal of the pipeline and connection into any adjacent pipeline and associated works, to take plant and equipment on to adjoining land;</li> <li>(b) make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights;</li> <li>(c) maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the Land, adjoining land and highway; effect access to the highway including to construct, use, maintain and improve a permanent means of access including visibility splays, and retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the Land, adjoining land and highway;</li> <li>(d) install, alter, re-lay, maintain, protect, adjust, operate or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers and pipes, cables or conduits or apparatus to serve the authorised development);</li> <li>(e) remove and discharge water from the Land and to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect</li> </ul>
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and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, to lay down, install, adjust, alter, construct, create, use, maintain, repair, renew, upgrade, inspect, remove and replace a drainage scheme on the Land (the “drainage works”);

- (f) inspect, use mechanical excavation (including directional drilling and/or digging), reinstate, remove, move or alter such part or parts of any drainage system on the Land for the purposes of the drainage works (including connecting the drainage works to any land drain as at the date of the drainage works);
- (g) place and use plant, machinery, structures and temporary structures within the Land, and to erect temporary signage and provide measures for the benefit of public and personnel safety for the purposes of the drainage works;
- (h) make such investigations in or on the Land as required for the purposes of the drainage works;
- (i) use or resort to trenchless installation techniques including (but not limited to) directional drilling in connection with the drainage works;
- (j) erect fencing, gates, walls, barriers or other means of enclosure, and create secure works areas or compounds including temporary trenchless installation technique compounds and working areas for the purposes of the drainage works;
- (k) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal of any drainage work is being carried out;
- (l) fell, lop or cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be standing on the Land or other land which would if not felled, lopped, cut or removed obstruct or interfere with the drainage works;
- (m) install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodland, shrubs, hedgerows, seeding, to effect landscaping works and other environmental and ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping;
- (n) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna; and
- (o) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land in accordance with any necessary licences relating to protected species and/or wildlife.

2. A restrictive covenant over the Land for the benefit of the remainder of the Order land to:

- (p) prevent any activity being undertaken on the Land which would interfere with the vertical or lateral support of the Pipeline;
  - (q) prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or telecommunications
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	through the cables ancillary to the pipeline, or support for the authorised development;
	(r) prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development; and
	(s) prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of the drainage works, ecological mitigation areas or areas of habitat creation including any ploughing or grazing without the prior written consent of the undertaker.
6-07	<b>1. Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—</b>
6-08	
6-09	
	(a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and replacing the authorised development, the inspection, testing, maintenance, renewal, upgrading, replacement and removal of the pipeline and connection into any adjacent pipeline and associated works, to take plant and equipment on to adjoining land;
	(b) make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights;
	(c) maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the Land, adjoining land and highway; effect access to the highway including to construct, use, maintain and improve a permanent means of access including visibility splays, and retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the Land, adjoining land and highway;
	(d) place and use plant, machinery, structures and temporary structures within the Land, and to erect temporary signage and provide measures for the benefit of public and personnel safety for the purposes of the drainage works;
	(e) erect fencing, gates, walls, barriers or other means of enclosure, and create secure works areas or compounds including temporary trenchless installation technique compounds and working areas for the purposes of the drainage works;
	(f) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal of any drainage work is being carried out;
	(g) fell, lop or cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be standing on the Land or other land which would if not felled, lopped, cut or removed obstruct or interfere with the drainage works;
	(h) remove and relocate trees, shrubs, hedgerows,;
	(i) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna; and
	(j) carry out such works (together with associated fencing) required by a <u>planning permission and/or consent now or to be granted over the Land in</u>

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accordance with any necessary licences relating to protected species and/or wildlife.

2. A restrictive covenant over the Land for the benefit of the remainder of the Order land to prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or telecommunications through the cables ancillary to the pipeline, or support for the authorised development.

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28-03

1. Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—

- (a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and replacing the authorised development, the inspection, testing, maintenance, renewal, upgrading, replacement and removal of the pipeline and connection into any adjacent pipeline and associated works, to take plant and equipment on to adjoining land;
  - (b) make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights;
  - (c) place and use plant, machinery, structures and temporary structures within the Land, and to erect temporary signage and provide measures for the benefit of public and personnel safety for the purposes of the drainage works;
  - (d) erect fencing, gates, walls, barriers or other means of enclosure, and create secure works areas or compounds including temporary trenchless installation technique compounds and working areas for the purposes of the drainage works;
  - (e) install, alter, re-lay, maintain, protect, adjust, operate or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers and pipes, cables or conduits or apparatus to serve the authorised development);
  - (f) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal of any drainage work is being carried out;
  - (g) install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodland, shrubs, hedgerows, seeding, to effect landscaping works and other environmental and ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping;
  - (h) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna; and
  - (i) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land in
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accordance with any necessary licences relating to protected species and/or wildlife.

2. A restrictive covenant over the Land for the benefit of the remainder of the Order land to:

- (j) prevent any activity being undertaken on the Land which would interfere with the vertical or lateral support of the Pipeline;
- (k) prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or telecommunications through the cables ancillary to the pipeline, or support for the authorised development;
- (l) prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development; and
- (m) prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of the ecological or environmental mitigation areas without the prior written consent of the undertaker.

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9-04  
16-03a

1. Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of surveying or investigating the land.

2. A restrictive covenant over the Land for the benefit of the remainder of the Order land to:

- (a) prevent any activity being undertaken on the Land which would interfere with the vertical or lateral support of the Pipeline;
  - (b) prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or telecommunications through the cables ancillary to the pipeline, or support for the authorised development; and
  - (c) prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development.
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## SCHEDULE 9

Article 27

### Modification of compensation and compulsory purchase enactments for creation of new rights

#### Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or imposition of a restrictive covenant as they apply as respects compensation for the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the following modification—

(2) For section (5A) (relevant valuation date) of the 1961 Act substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the Compulsory Purchase Act 1965 (as modified by paragraph 5(5) of Schedule 9 to the HyNet Carbon Dioxide Pipeline Order 202[•]).
  - (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the Compulsory Purchase Act 1965 (as substituted by paragraph 4(8) of Schedule 9 to the HyNet Carbon Dioxide Pipeline Order 202[•]) to acquire an interest in the land; and
  - (c) the acquiring authority enters on and takes possession of that land,
- the authority is deemed for the purposes of sub-section (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.

(2) Without limitation on the scope of paragraph (1), the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

**3.—**(1) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3) of this Schedule—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable.”

#### **Application of Part 1 of the 1965 Act**

**3.—**(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 33 (modification of Part 1 of the 1965 Act) to the acquisition of land under article 25 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 27 (compulsory acquisition of rights and restrictive covenants)—

- (a) with the modifications specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

**4.—**(1) The modifications referred to in sub-paragraph (1) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(3) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

“**7.** In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);

- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land);

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11 (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restriction, as well as the notice of entry required by sub-section (1) of that section (as it applies to a compulsory acquisition), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A(a) (powers of entry: further notices of entry), 11B(b) (counter-notice requiring possession to be taken on specified date), 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20 (tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 33(4) is also modified so as to enable the acquiring authority in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

(8) For Schedule 2A of the 1965 Act substitute—

## “SCHEDULE 2A

Section 8

### Counter-notice requiring purchase of land not in notice to treat

#### Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or a restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article 31 (application of the 1981 Act) of the HyNet Carbon Dioxide Pipeline Order 202[•] in respect of the land to which the notice to treat relates.

(2) But see article 32 (acquisition of subsoil or airspace only) of the HyNet Carbon Dioxide Pipeline Order 202[•] which excludes the acquisition of subsoil only from this Schedule.

(3) In this Schedule, “house” includes any park or garden belonging to a house.

#### Counter-notice requiring purchase of land

2. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

3. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

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(a) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c.22).  
(b) Section 11B was inserted by section 187(2) of the above Act.

### **Response to counter-notice**

- 4.** On receiving a counter-notice, the acquiring authority must decide whether to—
  - (a) withdraw the notice to treat;
  - (b) accept the counter-notice; or
  - (c) refer the counter-notice to the Upper Tribunal.
- 5.** The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
- 6.** If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 7.** If the authority do not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.
- 8.** If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

### **Determination by the Upper Tribunal**

- 9.** On a referral under paragraph (6), the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—
  - (a) in the case of a house, building or factory, cause material detriment to the house, building or factory; or
  - (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
- 10.** In making the determination, the Upper Tribunal must take into account—
  - (a) the effect of the acquisition of the right or the imposition of the covenant;
  - (b) the use to be made of the right or covenant proposed to be acquired or imposed; and
  - (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.
- 11.** If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 9, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.
- 12.** If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in that land.
- 13.**—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of six weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.  
(2) If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawing of the notice.
- 14.** Any dispute as to the compensation is to be determined by the Upper Tribunal.”

## Protective provisions

## PART 1

## Protection for electricity, gas, water and sewerage undertakers

1. The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the utility undertaker in question.

2. In this Part—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of a utility undertaker within paragraph (a) of the definition of that term, electric lines or electrical plant (as defined in the Electricity Act 1989(a), belonging to or maintained by that licence holder;
- (b) in the case of a utility undertaker within paragraph (b) of the definition of that term, any mains, pipes or other apparatus belonging to or maintained by that gas transporter within the meaning of Part 1 of the Gas Act 1986(b) for the purposes of gas supply;
- (c) in the case of a utility undertaker within paragraph (c) of the definition of that term, mains, pipes or other apparatus belonging to or maintained by that water undertaker for the purposes of water supply; and
- (d) in the case of a utility undertaker within paragraph (d) of the definition of that term—
  - (i) any drain or works vested in the sewerage undertaker under the Water Industry Act 1991(c); and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewerage disposal works, at future date) of that Act(d),

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed; and

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
- (c) a water undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

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(a) 1989 c.29.

(b) 1986 c.44.

(c) 1991 c.56.

(d) Section 104 was amended by section 42(3) of the Flood and Water Management Act 2010 (c.29).

for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

### **On street apparatus**

3. This Part does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

### **Acquisition of land**

4. Regardless of any provision of this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

### **Removal of apparatus**

5.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed; and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 49 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

### **Facilities and rights for alternative apparatus**

6.—(1) Where, in accordance with the provisions of this Part, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along the authorised development, the arbitrator must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus that may be required to prevent interference with any proposed works of the undertaker; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the authorised project for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus**

7.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 5(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, the provisions of this Part apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably

practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

### **Expenses and costs**

**8.**—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses agreed with the undertaker in advance and reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 5(2).

(2) The value of any apparatus removed under the provisions of this Part must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 49 (arbitration) to be necessary then, if such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

**9.**—(1) Subject to sub-paragraph (2), if by reason or in consequence of the construction of any such works referred to in paragraph 5(2) any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
  - (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,
- by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.



(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

### Miscellaneous

10. Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

## PART 2

### Protection for operators of electronic communications code networks

11. The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the operator in question.

12. In this Part—

“the 2003 Act” means the Communications Act 2003(a);

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in section 106(b) (application of the electronic communications code) of the 2003 Act;

“electronic communications code network” means—

- (a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the undertaker is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

“infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7 (infrastructure system) of that code; and

“operator” means the operator of an electronic communications code network.

13. The exercise of the powers conferred by article 37 (statutory undertakers) are subject to Part 10 (undertaker’s works affecting electronic communications apparatus) of the electronic communications code.

14.—(1) Subject to sub-paragraphs (2) to (4), if as a result of the authorised development or its construction, or of any subsidence resulting from the authorised development—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development), or other property of an operator; or
- (b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost agreed by the undertaker in advance and reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable

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(a) 2003 c.21.

(b) Section 106 was amended by section 4 of the Digital Economy Act 2017.

compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part must be referred to and settled by arbitration under article 49 (arbitration).

(5) This Part does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised project.

(6) Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

## PART 3

For the protection of National Grid as electricity undertaker

### Application

**15.**—(1) For the protection of National Grid as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid, where the benefit of this Order is transferred or granted to another person under article 7 (benefit of Order) -

- (a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Grid and the transferee or grantee (as the case may be); and
- (b) written notice of the transfer or grant must be given to National Grid on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid (but without prejudice to paragraph 25(3)(b) of this Part of this Schedule).

### Interpretation

**16.** In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“acceptable credit provider” means a bank or financial institution with a credit rating that is not lower than: (i) “A-” if the rating is assigned by Standard & Poor’s Ratings Group or Fitch Ratings; and “A3” if the rating is assigned by Moody’s Investors Services Inc.;

“acceptable insurance” means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000.00 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained for the duration of the construction period of the authorised works; and (b) after the construction period of the authorised works in respect

of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an “acceptable credit provider”, such insurance shall include (without limitation):

- (a) a waiver of subrogation and an indemnity to principal clause in favour of National Grid;
- (b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

“acceptable security” means either:

- (a) a parent company guarantee from a parent company in favour of National Grid to cover the undertaker’s liability to National Grid to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Grid and where required by National Grid, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or
- (b) a bank bond or letter of credit from an acceptable credit provider in favour of National Grid to cover the undertaker’s liability to National Grid for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Grid);

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Grid to enable National Grid to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any electric lines or electrical plant as defined in the Electricity Act 1989<sup>(a)</sup>, belonging to or maintained by National Grid, together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Grid for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) of this Order and includes any ancillary works as defined in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” and “commencement” in this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Grid (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for National Grid’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

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(a) 1989 c.29.

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“Incentive Deduction” means any incentive deduction National Grid Electricity Transmission plc receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised works;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid: construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Grid” means National Grid Electricity Transmission Plc (company number 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the Electricity Act 1989;

“NGESO” means as defined in the STC;

“parent company” means a parent company of the undertaker acceptable to and which shall have been approved by National Grid acting reasonably;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 21(2) or otherwise; and/or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 21(2) or otherwise; and/or
- (c) includes any of the activities that are referred to in National Grid’s document “Development near overhead lines” EN43-8 and the Health and Safety Executive’s (HSE) Guidance Note GS6 “Avoiding Danger from Overhead Power Lines”;

“STC” means the System Operator Transmission Owner Code prepared by the electricity Transmission Owners and NGESO as modified from time to time;

“STC Claims” means any claim made under the STC against National Grid Electricity Transmission plc arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector’s equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid Electricity Transmission plc’s transmission system which arises as a result of the authorised works;

“Transmission Owner” means as defined in the STC;

“undertaker” means the undertaker as defined in article 2(1) of this Order.

## **On Street Apparatus**

17. Except for paragraphs 18 (Apparatus of statutory undertakers in temporarily restricted streets), 23 (retained apparatus: protection of electricity undertaker) and 24 (expenses) of this Part of this Schedule, which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid, the other provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

### **Apparatus of statutory undertakers in temporarily restricted streets**

18. Despite the temporary stopping up or diversion of any highway under article 15 (temporary restriction of use of streets), National Grid may at all times take all necessary access across any such highway and execute and do all such works and things in, on or under any such highway as may be

reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the restriction or diversion was in that highway.

### **Protective works to buildings**

**19.**—The undertaker, in the case of the powers conferred by article 23 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid.

### **Acquisition of land**

**20.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Grid unless agreed by National Grid.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid or affect the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) Save where otherwise agreed in writing between National Grid and the undertaker, the undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid and/or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by National Grid under paragraph 23 (Retained apparatus: protection of electricity undertaker) or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub- paragraph (1).

### **Removal of apparatus**

**21.**—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub- paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to

National Grid to its reasonable satisfaction (taking into account paragraph 22(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

#### **Facilities and rights for alternative apparatus**

22.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter may be referred to arbitration in accordance with paragraph 29 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

#### **Retained apparatus: protection of electricity undertaker**

23.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity assets.

(2) In relation to specified works, the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all apparatus;

- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes;
- (g) an assessment of risks of rise of earth issues; and
- (h) a ground monitoring scheme, where required.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing; —

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;
- (d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;
- (f) written details of the operations and maintenance regime for any cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by National Grid's engineers; and
- (h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of at least 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid has given written approval of the plan so submitted.

(5) Any approval of National Grid required under sub-paragraph (4)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,
- (b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(8) Where National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction, prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required and National Grid must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 5 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 21(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (12) at all times.

(12) At all times when carrying out any works authorised under the Order, the undertaker must comply with National Grid's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

## **Expenses**

**24.**—(1) Save where otherwise agreed in writing between National Grid and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

- (a) any costs reasonably and properly incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 21(3); or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of



agreement, is not determined by arbitration in accordance with paragraph 29 (Arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Where in accordance with sub-paragraph (1) the undertaker pays National Grid in respect of an itemised invoice or claim for charges, costs and expenses reasonably anticipated within the following three months, should there be any unspent funds after the expiry of such three month period, National Grid shall repay such unspent funds within 60 days of the total charges, costs and expenses actually reasonably and properly incurred being known by National Grid.

## **Indemnity**

**25.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, and provided that at all times National Grid will be under an obligation to take reasonable steps to mitigate its loss, the undertaker will—

- (a) bear and pay on demand accompanied by an appropriately detailed invoice or appropriately detailed claim from National Grid the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and
- (b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party and including STC Claims or an Incentive Deduction other than arising from any default of National Grid.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Grid fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents;
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Grid as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 7 (benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-section 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 25; and/or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable;

(4) National Grid must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Grid must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Grid must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Grid’s reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid’s control and if reasonably requested to do so by the undertaker National Grid must provide an explanation of how the claim has been minimised, where relevant.

(7) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by National Grid or in respect of which National Grid has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Grid’s apparatus until the following conditions are satisfied:

- (a) unless and until National Grid is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid has confirmed the same to the undertaker in writing; and
- (b) unless and until National Grid is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Grid that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with 11(7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Grid from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

### **Enactments and agreements**

26. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Grid and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## **Co-operation**

27.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid requires the removal of apparatus under paragraph 21(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 23, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Grid's undertaking and National Grid must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Grid's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed, and any action, decision, cost and/or expense which may be claimed under this Part of this Schedule shall at all times be subject to National Grid acting reasonably.

## **Access**

28. If in consequence of the agreement reached in accordance with paragraph 20(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

## **Arbitration**

29. Save for differences or disputes arising under paragraph 21(2), 21(4), 22(1) and 23 any difference or dispute arising between the undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 49 (arbitration).

## **Notices**

30. Notwithstanding article 46 (service of notices), any plans submitted to National Grid by the undertaker pursuant to this Part must be submitted using the LSBUD system (<https://lsbud.co.uk/>) or to such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

# **PART 4**

## **For the protection of National Grid as gas undertaker**

### **Application**

31.—(1) For the protection of National Gas Transmission as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Gas Transmission.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Gas Transmission, where the benefit of this Order is transferred or granted to another person under article 7 (benefit of the Order)—

- (a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Gas Transmission and the transferee or grantee (as the case may be); and
- (b) written notice of the transfer or grant must be given to National Gas Transmission on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Gas Transmission (but without prejudice to paragraph 41(3)(b) of this Part of this Schedule).

## **Interpretation**

**32.—**(1) In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“acceptable credit provider” means a bank or financial institution with a credit rating that is not lower than: “A-” if the rating is assigned by Standard & Poor’s Ratings Group or Fitch Ratings; and “A3” if the rating is assigned by Moody’s Investors Services Inc.;

“acceptable insurance” means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000.00 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained for the duration of the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an “acceptable credit provider”, such insurance shall include (without limitation):

- (a) a waiver of subrogation and an indemnity to principal clause in favour of National Grid
- (b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

“acceptable security” means either:

- (a) parent company guarantee from a parent company in favour of National Gas Transmission to cover the undertaker’s liability to National Gas Transmission to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Gas Transmission and where required by National Gas Transmission, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or
- (b) a bank bond or letter of credit from an acceptable credit provider in favour of National Gas Transmission to cover the undertaker’s liability to National Gas Transmission for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Gas Transmission);

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Gas Transmission to enable National Gas Transmission to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any mains, pipes or other apparatus belonging to or maintained by National Gas Transmission for the purposes of gas supply together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Gas Transmission for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) of this Order and includes any ancillary works as defined in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” and “commencement” in this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Gas Transmission (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for National Gas Transmission’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Gas Transmission: construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Gas Transmission” means National Gas Transmission plc (company number 02006000) whose registered office is at National Grid House Warwick Technology Park, Gallows Hill, Warwick, CV34 6DA or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986 ;

“Network Code” means the network code prepared by National Gas Transmission pursuant to Standard Special Condition A11(3) of its Gas Transporter’s Licence, which incorporates the Uniform Network Code, as defined in Standard Special Condition A11(6) of National Gas Transmission’s Transporters Licence, as both documents are amended from time to time;

“Network Code Claims” means any claim made against National Gas Transmission by any person or loss suffered by National Gas Transmission under the Network Code arising out of or in connection with any failure by National Gas Transmission to make gas available for off take at, or a failure to accept gas tendered for delivery from, any entry point to or exit point from the gas national transmission system as a result of the authorised works or any costs and/or expenses incurred by National Gas Transmission as a result of or in connection with, it taking action (including purchase or buy back of capacity) for the purpose of managing constraint or potential constraint on the gas national transmission system which may arise as a result of the authorised works;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“parent company” means a parent company of the undertaker acceptable to and which shall have been approved by National Gas Transmission acting reasonably;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 37(2) or otherwise; and/or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 37(2) or otherwise; and/or

- (c) includes any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (National Gas Transmission's policies for safe working in proximity to gas apparatus, "Specification for safe working in the vicinity of National Grid, High Pressure Gas pipelines and associated installations- requirements for third parties"; and

"undertaker" means the undertaker as defined in article 2(1) of this Order.

### **On Street Apparatus**

**33.** Except for paragraphs 34 (Apparatus of statutory undertakers in temporarily restricted streets), 39 (retained apparatus: protection of gas undertaker), 40 (expenses) and 41 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Gas Transmission, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Gas Transmission are regulated by the provisions of Part 3 of the 1991 Act.

### **Apparatus of statutory undertakers in temporarily restricted streets**

**34.** Despite the temporary stopping up or diversion of any highway under article 15 (temporary restriction of use of streets), National Gas Transmission may at all times take all necessary access across any such highway and execute and do all such works and things in, on or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the restriction or diversion was in that highway.

### **Protective works to buildings**

**35.** The undertaker, in the case of the powers conferred by article 23 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Gas Transmission.

### **Acquisition of land**

**36.—(1)** Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Gas Transmission unless agreed by National Gas Transmission.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Gas Transmission and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Gas Transmission or affect the provisions of any enactment or agreement regulating the relations between National Gas Transmission and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Gas Transmission reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Gas Transmission and the undertaker acting reasonably and which must be no less favourable on the whole to National Gas Transmission unless otherwise agreed by National Gas Transmission, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) Save where otherwise agreed in writing between National Gas Transmission and the undertaker, the undertaker and National Gas Transmission agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Gas Transmission and/or other enactments relied upon by National Gas Transmission as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by National Gas Transmission under paragraph 39 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

### **Removal of apparatus**

**37.**—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Gas Transmission to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Gas Transmission in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Gas Transmission advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Gas Transmission reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Gas Transmission to its reasonable satisfaction (taking into account paragraph 38(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Gas Transmission may, in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Gas Transmission to use its compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Gas Transmission and the undertaker.

(5) National Gas Transmission must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Gas Transmission of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

### **Facilities and rights for alternative apparatus**

**38.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Gas Transmission facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Gas Transmission and must be no less favourable on the whole to National Gas Transmission than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Gas Transmission.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less

favourable on the whole to National Gas Transmission than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter may be referred to arbitration in accordance with paragraph 45 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Gas Transmission as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

**Retained apparatus: protection of gas undertaker**

**39.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Gas Transmission a plan and, if reasonably required by National Gas Transmission, a ground monitoring scheme in respect of those works.

(2) In relation to specified works, the plan to be submitted to National Gas Transmission under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until National Gas Transmission has given written approval of the plan so submitted.

(4) Any approval of National Gas Transmission required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and,
- (b) must not be unreasonably withheld.

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, National Gas Transmission may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works executed under sub-paragraphs (1) or (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub paragraph (5), as approved or as amended from time to time by agreement between the undertaker and National Gas Transmission and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by National Gas Transmission for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Gas Transmission will be entitled to watch and inspect the execution of those works.

(7) Where National Gas Transmission requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Gas Transmission's satisfaction, , prior to the commencement of any specified works for which protective works are required and National Gas Transmission must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If National Gas Transmission in accordance with sub-paragraphs (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 31 to 33 and 35 to 37 apply as if the removal of the apparatus had been required by the undertaker under paragraph 37(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new



plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Gas Transmission notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with National Gas Transmission's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and 69 associated installation requirements for third parties T/SP/SSW22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that National Gas Transmission retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 40.

### **Expenses**

**40.**—(1) Save where otherwise agreed in writing between National Gas Transmission and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Gas Transmission within 30 days of receipt of an itemised invoice or claim from National Gas Transmission all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Gas Transmission in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

- (a) any costs reasonably and properly incurred by or compensation properly paid by National Gas Transmission in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Gas Transmission as a consequence of National Gas Transmission;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 37(3); or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Gas Transmission;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 45 (Arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Gas Transmission by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Gas Transmission in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Gas Transmission any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Where in accordance with sub-paragraph (1) the undertaker pays National Gas Transmission in respect of an itemised invoice or claim for charges, costs and expenses reasonably anticipated within the following three months, should there be any unspent funds after the expiry of such three month period National Gas Transmission shall repay such unspent funds within 60 days of the total charges, costs and expenses actually reasonably and properly incurred being known, and include an itemised accounting of the charges, costs and expenses reasonably and properly incurred for the three months following the issue of the itemised invoice or claim.

## **Indemnity**

**41.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Gas Transmission, or there is any interruption in any service provided, or in the supply of any goods or energy, by National Gas Transmission, or National Gas Transmission becomes liable to pay any amount to any third party, and provided that at all times National Gas Transmission will be under an obligation to take reasonable steps to mitigate its loss, the undertaker will—

- (a) bear and pay on demand accompanied by an appropriately detailed invoice or appropriately detailed claim from National Gas Transmission the cost reasonably and properly incurred by National Gas Transmission in making good such damage or restoring the supply; and
- (b) indemnify National Gas Transmission for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Gas Transmission, by reason or in consequence of any such damage or interruption or National Gas Transmission becoming liable to any third party and including Network Code Claims other than arising from any default of National Gas Transmission.

(2) The fact that any act or thing may have been done by National Gas Transmission on behalf of the undertaker or in accordance with a plan approved by National Gas Transmission or in accordance with any requirement of National Gas Transmission or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Gas Transmission fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Gas Transmission, its officers, servants, contractors or agents;
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Gas Transmission as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 7 (benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-section 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 41; and/or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable;

(4) National Gas Transmission must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Gas Transmission must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Gas Transmission must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Gas Transmission’s reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Gas Transmission’s control and if reasonably requested to do so by the undertaker National Gas Transmission must provide an explanation of how the claim has been minimised, where relevant.

(7) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by National Gas Transmission or in respect of which National Gas Transmission has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Gas Transmission’s apparatus until the following conditions are satisfied:

- (a) unless and until National Gas Transmission is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Gas Transmission has confirmed the same to the undertaker in writing; and
- (b) unless and until National Gas Transmission is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Gas Transmission that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Gas Transmission has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with 11(7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Gas Transmission from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

### **Enactments and agreements**

42. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Gas Transmission and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Gas Transmission in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

43.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Gas Transmission requires the removal of apparatus under paragraph 7(2) or National Gas Transmission makes requirements for the protection or alteration of apparatus under paragraph 39, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Gas Transmission's undertaking and National Gas Transmission must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Gas Transmission's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed, and any action, decision, cost and/or expense which may be claimed under this Part of this Schedule shall at all times be subject to National Gas Transmission acting reasonably.

### **Access**

44. If in consequence of the agreement reached in accordance with paragraph 36(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Gas Transmission to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

45. Save for differences or disputes arising under paragraph 37(2), 37(4), 38(1) and 39 any difference or dispute arising between the undertaker and National Gas Transmission under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Gas Transmission, be determined by arbitration in accordance with article 49 (arbitration).

### **Notices**

46. Notwithstanding article 46 (service of notices), any plans submitted to National Gas Transmission by the undertaker pursuant to this Part must be submitted to <https://lsbud.co.uk/> or such other address as National Gas Transmission may from time to time appoint instead for that purpose and notify to the undertaker in writing.

## **PART 5**

### **For the protection of Cadent Gas Limited**

### **Application**

47. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

## Interpretation

### 48. In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by Cadent for the purposes of Cadent’s undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent’s undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as is given in article 2(1) of the Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Schedule

“Cadent” means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“Cadent’s undertaking” means the rights, duties and obligations of Cadent Gas Limited as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995);

“commence” and “commencement” means carry out a material operation, as defined in section 155 of the 2008 Act (which explains when development begins), comprised in or for the purposes of the authorised development including (but not limited to) any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground condition, the erection of construction plant and equipment, other than erection of fencing to site boundaries or marking out of site boundaries, installation of amphibian and reptile fencing, or environmental mitigation measures, and “commencement”, “commenced” and cognate expressions are to be construed accordingly;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“facilities and rights” for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for Cadent’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” have effect as if Cadent’s existing apparatus was authorised development and as if the term maintain includes protect and use;

“parent company” means a parent company of the undertaker acceptable to Cadent and which shall have been approved by Cadent acting reasonably;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“protective works” means the underpinning, strengthening and any other works the purpose of which is to prevent damage to or interference with Cadent’s apparatus that may be caused by the carrying out, maintenance or use of the authorised development;

“rights” includes restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

“specified works” means any of the authorised development or activities (including maintenance) undertaken in association with the authorised development which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 53(2) or otherwise; or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 53(2) or otherwise.

### **On Street apparatus**

**49.**—(1) This Schedule does not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act, except for—

- (a) paragraphs 50, 55, and 57; and
- (b) where sub-paragraph (2) applies, paragraphs 53 and 54.

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

(3) The Protective Provisions in this Part of this Schedule apply and take precedence over article 37 (statutory undertakers) and 38 (recovery of costs of new connections) of the Order which shall not apply to Cadent.

### **Apparatus of Cadent in stopped up streets**

**50.**—(1) Where any street is stopped up under article 13 (temporary restriction of public rights of way), 15 (temporary restriction of use of streets) or Schedule 5 (streets to be temporarily stopped up or restricted), if Cadent has any apparatus in the street or accessed via that street Cadent is entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Cadent, or procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or highway, but nothing in this paragraph shall affect any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 53.

(2) Subject to sub-paragraph (3) below, and notwithstanding the temporary alteration, diversion or restriction of use of any street under the powers of article 13 (temporary restriction of public rights of way), 15 (temporary restriction of use of streets) or Schedule 5 (streets to be temporarily stopped up or restricted), Cadent will be at liberty at all times and at Cadent’s own risk to take reasonable access across any such street and to execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary alteration, diversion or restriction in respect of any apparatus which at the time of the stopping up or diversion was in that street.

(3) In taking access pursuant to sub-paragraph (2) above, Cadent must:

- (a) Comply with any plans produced by the undertaker pursuant to its obligations under the Construction (Design and Management) Regulations 2015; and
- (b) Comply with all relevant health and safety legislation, guidance, protocols and procedures.

### **Protective works to buildings**

**51.**—(1) The undertaker must exercise the powers conferred by article 23 (protective work to buildings) so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent (such consent not to be unreasonably withheld or delayed) and if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in the view of its intended removal or abandonment) or property of Cadent or any interruption in the supply of gas by Cadent, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and, subject to sub-paragraph (2), shall-

- (a) pay compensation to Cadent for any reasonable loss sustained by it; and
- (b) indemnify Cadent against all claims, demands, proceedings, reasonable costs, damages and expenses which may be made or taken against or recovered from or incurred by Cadent, by reason of any such damage or interruption provided that at all times Cadent will be under an obligation to take all reasonable steps to mitigate its loss.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of Cadent or its contractors or workmen; and Cadent will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement, admission of liability or compromise thereof shall be made by Cadent, save in respect of any payment requirement under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

### **Acquisition of land**

**52.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire from Cadent any interest in land or appropriate, acquire, extinguish, interfere with or override any easement or other interest in land of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out or maintenance of any part of the authorised development (or in such other timeframe as may be agreed between Cadent and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of Cadent or affect the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development or maintenance thereof.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule prevail.

(4) Any agreement or consent granted by Cadent under paragraph 55 or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement under sub-paragraph (1) that involves de-commissioned apparatus being left in situ Cadent must use reasonable endeavours to surrender its easement or other interest in land in respect of such decommissioned apparatus to the reversionary landowner. If Cadent is not released by the reversionary landowner from all liabilities in respect of such decommissioned apparatus the undertaker shall take on such liabilities in respect of such decommissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 53 do not apply, the undertaker must, unless Cadent agrees otherwise—

- (a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

### **Removal of apparatus**

**53.**—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 52, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed and any right of Cadent to maintain that apparatus in that land must not be extinguished or interfered with until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Cadent and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its reasonable satisfaction (taking into account paragraph 54(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and
- (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such position as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3), then proceed without unnecessary delay to construct and bring into operation the



alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

### **Facilities and rights for alternative apparatus**

**54.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent (in Cadent's reasonable opinion) than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in Cadent's reasonable opinion), then the terms and conditions to which those facilities and rights are subject may be referred to arbitration in accordance with paragraph 60 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus: protection of Cadent**

**55.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until Cadent has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of Cadent given under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and
- (b) must not be unreasonably withheld or delayed and Cadent must meaningfully engage with the undertaker within 28 days of the date of submission of the plan under sub-paragraph (1).

(5) Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Specified works must only be executed in accordance with—

- (a) the plan submitted under sub-paragraph (1) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and Cadent; and

(b) all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works.

(7) Where Cadent reasonably requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's reasonable satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(8) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 47 to 49 and 52 to 54 apply as if the removal of the apparatus had been required by the undertaker under paragraph 53(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development (including such an event attributable to its maintenance)—

- (a) the undertaker must implement an appropriate ground mitigation scheme; and
- (b) Cadent retains the right to carry out any further necessary protective works (in Cadent's reasonable opinion) for the safeguarding of its apparatus and can recover any such costs associated with the further protective works in line with paragraph 56.

(11) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances.

(12) In this paragraph, "emergency works" means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

## **Expenses**

**56.**—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand, all documented charges, costs and expenses reasonably anticipated or reasonably and properly incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised development including without limitation—

- (a) any costs reasonably and properly incurred by or compensation properly paid by Cadent in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all reasonable costs (including professional fees) incurred by Cadent as a consequence of Cadent;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 53(3) if it elects to do so; or
  - (ii) exercising any compulsory purchase powers under this Order transferred to or benefitting Cadent;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;

- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;
- (g) any watching brief pursuant to sub-paragraph 55(6).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 49 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Cadent in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Where Cadent demands payment of reasonably anticipated charges, costs and expenses pursuant to sub-paragraph (1), Cadent must provide the undertaker with an itemised invoice or claim detailing such charges, costs, and expenses reasonably anticipated to fall due within the following three months of such a demand. The undertaker shall pay the reasonably anticipated costs set out in the itemised invoice to Cadent on demand in accordance with sub-paragraph (1). To the extent that this sum paid in advance has not been expended by Cadent before three months after payment by the undertaker of that sum, the undertaker may demand the unspent balance remaining to be repaid by Cadent and Cadent shall repay that unspent balance within 30 days (unless otherwise agreed in writing between the parties).

### **Enactments and agreements**

**57.** Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## **Co-operation**

**58.**—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or Cadent requires the removal of apparatus under paragraph 53(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 55, the undertaker must use its reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Cadent’s undertaking and Cadent must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent’s consent, agreement or approval is required in relation to plans, documents or other information submitted by Cadent or the taking of action by Cadent, it must not be unreasonably withheld or delayed.

## **Access**

**59.** If in consequence of any agreement reached in accordance with paragraph 52(1) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction (in Cadent’s reasonable opinion). For the avoidance of doubt, where the undertaker cannot grant such alternative rights and means of access to such apparatus by virtue of not being in possession of the requisite land rights, the undertaker shall use reasonable endeavours to assist in the securing of the requisite rights and means of access.

## **Arbitration**

**60.** Save for differences or disputes arising under sub-paragraphs 53(2) and 53(4) any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 49 (arbitration).

## **Notices**

**61.** Notwithstanding article 46 (service of notices) any plans submitted to Cadent by the undertaker pursuant to sub-paragraph 55(1) must be sent via email to Cadent Gas Limited Plant Protection at [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) copied by e-mail to [toby.feirn@cadentgas.com](mailto:toby.feirn@cadentgas.com) and sent to the General Counsel Department at Cadent's registered office or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker in writing.

# **PART 6**

## **For the protection of Network Rail**

**62.** The following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 76, of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

**63.** In this Part of this Schedule—

“asset protection agreement” means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"the engineer" means an engineer appointed by Network Rail for the purposes of this Order;

"network licence" means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of his powers under section 8(1)(licences) of the Railways Act 1993;

"Network Rail" means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at 1 Eversholt Street, London NW1 2DN) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition "associated company" means any company which is (within the meaning of section 1159 of the Companies Act 2006 the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited's railway undertaking;

"plans" includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

"protective works" means the underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused by the carrying out, maintenance or use of the authorised development;

"railway operational procedures" means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

"railway property" means any railway belonging to Network Rail and-

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;

"regulatory consents" means any consent or approval required under:

- (a) the Railways Act 1993;
- (b) the network licence; and/or
- (c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

"specified work" means so much of any of the authorised works as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property, and for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (power to maintain the authorised development) in respect of such works.

**64.—**(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised works pursuant to this Order.

**65.—**(1) The undertaker must not exercise the powers conferred by—

- (a) article 22 (authority to survey and investigate the land);
- (b) article 25 (compulsory acquisition of land);
- (c) article 27 (compulsory acquisition of rights and restrictive covenants);
- (d) article 28 (statutory authority to override easements and other rights);

- (e) article 32 (acquisition of subsoil or airspace only);
- (f) article 35 (temporary use of land for carrying out the authorised development);
- (g) article 36 (temporary use of land for maintaining the authorised development);
- (h) article 37 (statutory undertakers);
- (i) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;
- (j) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail, such consent not to be unreasonably withheld

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act or article 37 (statutory undertakers) in relation to any right of access of Network Rail to railway property, but such right of access may be extinguished or diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would directly result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway, in Network Rail's reasonable opinion.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions including any conditions necessary to ensure operational or railway safety but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

**66.—**(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration under article 49 (arbitration).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated his disapproval of those plans and the grounds of his disapproval, the undertaker may serve upon the engineer written notice requiring the engineer to intimate his approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated his approval or disapproval, he shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, subject to Network Rail seeking consent from the undertaker (such matters to be in the undertaker's absolute discretion) and if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it with all reasonable dispatch on behalf of and to the absolute satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying his approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in his reasonable opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the reasonable expense of the undertaker in either case without reasonable delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to his reasonable satisfaction.

(5) The undertaker shall not be required to comply with sub-paragraph (1) in a case of emergency but in that case it shall give to Network Rail notice as soon as is reasonably practicable, and in addition to that notice shall provide a plan, section and description of those works as soon as reasonably practicable subsequently.

**67.**—(1) Any protective works to be constructed by virtue of paragraph 66(4) must, when commenced, be constructed—

- (a) without necessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 66;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of the construction of a specified work, the undertaker must, regardless of any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and reasonable compensation for any loss which it may sustain by reason of any such damage, interference or obstruction but always excluding any consequential loss or indirect loss.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its employees, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its employees, contractors or agents.

**68.** The undertaker must-

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as he may reasonably require with regard to a specified work or the method of constructing it.

**69.** Network Rail must at all times afford reasonable facilities to the undertaker and its employees, contractors or agents for access to any works carried out by Network Rail under this Part during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

**70.**—(1) If any permanent or temporary alterations or additions to railway property, are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker written notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including,

in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working, and when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed and provides its consent, (such matters to be in the undertaker's absolute discretion) Network Rail must assume construction of that part of the specified work and the undertaker must, regardless of any such approval of a specified work under paragraph 66(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and reasonable compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work provided that at all times Network Rail will be under an obligation to take reasonable steps to mitigate its loss and always excluding any consequential loss or indirect loss.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 71(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

**71.** The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 66(3) or in constructing any protective works under the provisions of paragraph 66(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by him of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, guards and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

**72.** If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as that it adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

**73.** The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.



74. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

75.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses (but always excluding any consequential or indirect loss) not otherwise provided for in this Part of this Schedule (subject to article 47 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the undertaker's construction, maintenance or operation of a specified work or the failure thereof; or
- (b) by reason of any act or omission of the undertaker or of any person in its employment or of its contractors or others whilst engaged upon a specified work;
- (c) by reason of any act or omission of the undertaker or any person in its employment or of its contractors or others whilst accessing to or egressing from the authorised development;
- (d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others; and
- (e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the construction or operation of the authorised development;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission, provided Network Rail will be under an obligation to take reasonable steps to mitigate its loss and always excluding any consequential loss or indirect loss.

(2) The fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under this Part.

(3) Network Rail must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand shall be made without the prior consent of the undertaker take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands

(4) The sums payable by the undertaker under sub-paragraph (1) shall include a sum equivalent to the relevant costs.

(5) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(6) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub paragraph (4).

(7) In this paragraph—

"the relevant costs" means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of Network Rail's railway network as a direct result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in subparagraph (1); and

"train operator" means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

**76.** Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part (including the amount of the relevant costs reasonably incurred and mentioned in paragraph 76) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

**77.** In the assessment of any sums payable to Network Rail under this Part there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

**78.** The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

**79.** Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

**80.** The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 7 (benefit of Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

**81.** The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 45 (certification of plans) are certified by the Secretary of State, provide a set of those plans to Network Rail in the form of a USB stick or download link.

## PART 7

### For the protection of the Canal and River Trust

#### Interpretation

**82.**—(1) For the protection of the Canal & River Trust the following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and the Canal & River Trust.

(2) In this Part of this Schedule—

“Code of Practice” means the Code of Practice for Works Affecting the Canal & River Trust (April 2022) or any updates or amendments thereto;

“construction”, in relation to any specified work or protective work, includes—

- (a) the execution and placing of that work; and

- (b) any relaying, renewal, or maintenance of that work and “construct” and “constructed” have corresponding meanings;

“Canal & River Trust’s network” means the Canal & River Trust’s network of waterways;

“detriment” means any damage to the waterway or any other property of the Canal & River Trust caused by the presence of the authorised development and, without prejudice to the generality of that meaning, includes—

- (a) any material obstruction of, or interference with, or hindrance or danger to, navigation or to any use of the waterway (including towing paths);
- (i) the erosion of the bed or banks of the waterway, or the impairment of the stability of any works, lands or premises forming part of the waterway;
  - (ii) the deposit of materials or the siltation of the waterway so as to damage the waterway;
  - (iii) the pollution of the waterway;
  - (iv) any significant alteration in the water level of the waterway, or significant interference with the supply of water thereto, or drainage of water therefrom;
  - (v) any harm to the ecology of the waterway (including any adverse impact on any site of special scientific interest comprised in the Canal & River Trust’s network); and
  - (vi) any material interference with the exercise by any person of rights over Canal & River Trust’s network;

“the engineer” means an engineer appointed by the Canal & River Trust for the purpose in question;

“plans” includes sections, designs, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction) and programmes;

“practical completion” means practical completion of all of the specified work notwithstanding that items which would ordinarily be considered snagging items remain outstanding, and the expression “practically complete” and “practically completed” is to be construed accordingly;

“protective work” means a work constructed under paragraph 86(3)(a);

“specified work” means so much of any authorised development as defined in article 2(1) of this Order that is situated upon, across, under, over or within 15 metres of, or may in any way affect the waterway;

“the waterway” means each and every part of the Shropshire Union Canal within the order limits, and any works, lands or premises belonging to the Canal & River Trust, or under its management or control, and held or used by the Canal & River Trust in connection with that canal in connection with its statutory functions.

### **Powers requiring the Canal & River Trust’s consent**

**83.**—(1) The undertaker must not in the exercise of the powers conferred by this Order to materially obstruct or interfere with pedestrian or vehicular access to the waterway unless such obstruction or interference with such access is with the consent of the Canal & River Trust.

(2) The undertaker must not exercise any power conferred by this Order to discharge water into the waterway under article 20 (discharge of water) or in any way interfere with the supply of water to or the drainage of water from the waterway unless such exercise is with the consent of the Canal & River Trust, and such consent may be given subject to terms and conditions as the Canal & River Trust may reasonably impose, but must not be unreasonably withheld or delayed.

(3) The undertaker must not exercise the powers conferred by article 22 (authority to survey and investigate the land) or section 11(3) of the 1965 Act, in relation to the Shropshire Union Canal unless such exercise is with the consent of the Canal & River Trust.

(4) Articles 6(a) 6(b) and 6(d)(i) (limits of deviation) shall not apply in relation to the waterway unless in conducting such exercise the crown of any installed pipeline is at least 3.5 metres below the hard bed level of the waterway or otherwise with the consent of the Canal & River Trust.

(5) The consent of the Canal & River Trust pursuant to sub-paragraphs (1) to (4) must not be unreasonably withheld or delayed.

(6) This paragraph does not apply where the undertaker reasonably believes emergency works are required to prevent imminent injury or damage to persons or property. In such circumstances the Canal & River Trust must be notified as soon as reasonably practicable.

### **Fencing**

**84.**—(1) Where so required by the engineer the undertaker must to the reasonable satisfaction of the engineer fence off a specified work or a protective work or take such other steps as the engineer may require to be taken for the purpose of separating a specified work or a protective work from the waterway, whether on a temporary or permanent basis or both.

(2) Any fencing constructed under this provision shall not require any other consent from the Canal & River Trust for interferences or obstructions to access to their network under other provisions.

### **Survey of waterway**

**85.**—(1) Before the commencement of the initial construction of any part of the specified works and again following practical completion of the specified works the undertaker must bear the reasonable and proper cost of the carrying out by a qualified engineer (the “surveyor”), to be approved by the Canal & River Trust and the undertaker, of a survey including a dip-survey to measure the depth of the waterway (“the survey”) of so much of the waterway and of any land and existing works of the undertaker which may provide support for the waterway as will or may be affected by the specified works.

(2) For the purposes of the survey the undertaker must—

- (a) on being given reasonable notice (save in case of emergency, when immediate access must be afforded) afford reasonable facilities to the surveyor for access to the site of the specified works and to any land and existing works of the undertaker which may provide support for the waterway as will or may be affected by the specified works; and
- (b) supply the surveyor as soon as reasonably practicable with all such information as they may reasonably require and which the undertaker holds with regard to such existing works of the undertaker and to the specified works or the method of their construction.

(3) The reasonable costs of the survey must include the costs of any dewatering or reduction of the water level of any part of the waterway (where reasonably required) which may be effected to facilitate the carrying out of the survey and the provisions of this Part will apply with all necessary

(4) modifications to any such dewatering or reduction in the water level as though the same were specified works.

(5) Copies of the survey must be provided to both the Canal & River Trust and the undertaker at no cost to the Canal & River Trust.

### **Approval of plans, protective works etc.**

**86.**—(1) The undertaker must before commencing construction of any specified work including any temporary works supply to the Canal & River Trust proper and sufficient plans of that work, on the Canal & River Trust forms or as otherwise agreed, having regard to the Canal & River Trust’s Code of Practice and such further particulars as the Canal and River Trust may within 10 working days of the initial submission of the plans reasonably require. Construction of a specified work must not commence until plans of that work have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld or delayed, and if within 30 working days after such plans (including any other particulars reasonably required under sub-paragraph (1)) have been received by the Canal & River Trust the engineer has

not intimated their disapproval of those plans and the grounds of their disapproval the engineer is deemed to have approved the plans as submitted.

(3) When signifying approval of the plans the engineer may specify, on land held or controlled by the Canal & River Trust or the undertaker and subject to such works being authorised by this Order or being development permitted by an Act of Parliament or general development order made under the 1990 Act—

- (a) any protective work (whether temporary or permanent) which in the reasonable opinion of the engineer should be carried out before the commencement of a specified work to prevent detriment; and
- (b) such other requirements as may be reasonably necessary to prevent detriment.

(4) Any protective works required under this paragraph must be constructed by the undertaker or by the Canal & River Trust at the undertaker's request as soon as practicable and the undertaker must not commence the construction of a specified work until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction with such consent not to be unreasonably withheld or delayed.

(5) The undertaker must pay to the Canal & River Trust a capitalised sum representing the reasonably increased or reasonable additional cost of maintaining and, when necessary, renewing any specified works or permanent protective works provided under sub-paragraph (3) above, for which the Canal & River Trust is liable to maintain, and of carrying out any additional dredging of the waterway reasonably necessitated by the exercise of any of the powers under this Order. If the cost of maintaining the waterway, or of works of renewal of the waterway, is reduced in consequence of any such works, a capitalised sum representing such reasonable saving is to be set off against any sum payable by the undertaker to the Canal & River Trust under this paragraph.

(6) In the event that the undertaker fails to complete the construction of, or part of, the specified works the Canal & River Trust may, if it is reasonably required in order to avoid detriment, serve on the undertaker a notice in writing requesting that construction be completed. Any notice served under this sub-paragraph must state the works that are to be completed by the undertaker and lay out a reasonable timetable for the works' completion. If the undertaker fails to comply with this notice within 35 days, the Canal & River Trust may undertake protective works to make safe the area and avoid detriment, excluding any works to the pipeline itself, and the undertaker must reimburse the Canal & River Trust all costs, fees, charges and expenses it has reasonably incurred in carrying out such works.

(7) The undertaker and the Canal & River Trust must engage in good faith to agree the works and timeframe in the notice served under this paragraph prior to its service upon the undertaker.

### **Design of works**

**87.**—(1) Without prejudice to its obligations under the foregoing provisions of this Part of this Schedule and subject to safety requirements and compliance with this Order the undertaker must engage in good faith and consult, collaborate and respond constructively to any reasonable approach, suggestion, proposal or initiative made by the Canal & River Trust in respect of works that materially affect the Canal & River Trust's network on—

- (a) the design and appearance of the specified works; and
- (b) the environmental effects of those works, having regard to such views as may be expressed by the Canal & River Trust in response to such consultation pursuant in particular to the requirements imposed on the Canal & River Trust by section 22 (general environmental and recreational duties) of the British Waterways Act 1995 and to the interest of the Canal & River Trust in preserving and enhancing the environment of its waterways; and
- (c) amendments or alterations to the CEMP (as may be approved pursuant to paragraph 5 of Part 1 of Schedule 2) in respect of a specified work or a protective work or otherwise in connection therewith; and
- (d) any draft CTMP and/or any draft LEMP relating to a stage which contains a specified work;

## **Notice of works**

**88.** The undertaker must give to the engineer 30 days' notice of its intention to commence the construction of any of the specified works or protective works, or, in the case of repair carried out in an emergency, such notice as may be reasonably practicable so that, in particular, the Canal & River Trust may where appropriate arrange for the publication of notices bringing those works to the attention of users of the Canal & River Trust's network.

## **Construction of specified works**

**89.**—(1) Any specified works or protective works must, when commenced, be constructed—

- (a) as soon as reasonably practicable in accordance with the plans approved or deemed to have been approved or settled as aforesaid and with any specifications made under paragraphs 86 (approval of plans) and 87 (design of works) of this Part;
- (b) under the supervision (if given) of the engineer;
- (c) in such manner as to cause as little detriment to the waterway as is reasonably practicable;
- (d) in such manner as to cause as little inconvenience as is reasonably practicable to the Canal & River Trust, its officers and agents and all other persons lawfully using the waterways, except to the extent that temporary obstruction has otherwise been agreed by the Canal & River Trust; and
- (e) in such a manner as to reasonably ensure that no materials other than water are discharged or deposited into the waterway (subject always to paragraph 83(2) above); and
- (f) in compliance with the Code of Practice where relevant;

(2) Nothing in this Order authorises the undertaker to make or maintain any permanent works in or over the waterway so as to impede or prevent (whether by reducing the width of the waterway or otherwise) the passage of any vessel which is of a kind (as to its dimensions) for which the Canal & River Trust is required by section 105(1)(b) and (2) of the Transport Act 1968<sup>a</sup> to maintain the waterway.

(3) Following the completion of the construction of the specified works the undertaker must restore the waterway to a condition no less satisfactory than its condition immediately prior to the commencement of those works unless otherwise agreed between the undertaker and the Canal & River Trust.

(4) In assessing whether the condition of the waterway is no less satisfactory than immediately prior to the works pursuant to sub-paragraph (3), the Canal & River Trust and the undertaker must take account of any survey issued pursuant to paragraph 85 (survey of waterway) and any other information agreed between them pursuant to this Part.

## **Prevention of pollution**

**90.** The undertaker must not in the course of constructing a specified work or a protective work or otherwise in connection therewith do or permit anything which is reasonably foreseeable to result in the pollution of the waterway or the deposit of materials therein and must take such steps as the engineer may reasonably require to avoid or make good any breach of its obligations under this paragraph.

## **Access to work – provision of information**

**91.**—(1) The undertaker on being given reasonable notice must—

- (a) at all reasonable times allow reasonable facilities to the engineer for access to a specified work during its construction; and

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<sup>a</sup> 1968 c.73, section 105 was amended by the British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659) and the Transport and Works Applications (Inland Waterways Procedure) Regulations 1993 (S.I. 1993/1119)

- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.
- (2) The Canal & River Trust on being given reasonable notice must—
- (a) at all reasonable times afford reasonable facilities to the undertaker and its agents for access to any works carried out by the Canal & River Trust under this Part during their construction; and
  - (b) supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them and the undertaker must reimburse the Canal & River Trust's reasonable costs in relation to the supply of such information.

### **Alterations to the waterway**

**92.**—(1) If during the construction of a specified work or a protective work or during a period of twenty four (24) months after the completion of those works any alterations or additions, either permanent or temporary, to the waterway are reasonably necessary in consequence of the construction of the specified work or the protective work in order to avoid detriment, and the Canal & River Trust gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to the Canal & River Trust the reasonable costs of those alterations or additions including, in respect of any such alterations or additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by the Canal & River Trust in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If the cost of maintaining, working or renewing the waterway is reduced in consequence of any such alterations or additions a capitalised sum representing such saving is to be set off against any sum payable by the undertaker to the Canal & River Trust under this paragraph.

(3) For the avoidance of doubt, while the Canal & River Trust may undertake works under this paragraph, including works required to make safe the area, the Canal & River Trust may not undertake any works to the pipeline, or works that may endanger the pipeline, itself under this paragraph.

### **Maintenance of works**

**93.** If at any time after the completion of a specified work or a protective work, not being a work vested in the Canal & River Trust, the Canal & River Trust gives notice to the undertaker informing it that it reasonably considers that the state of maintenance of the specified work or protective work appears to be such that the work is causing or likely to cause detriment, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put the work in such state of maintenance as not to cause such detriment.

### **Repayment of the Canal & River Trust's fees, etc.**

**94.** The undertaker must repay to the Canal & River Trust in accordance with the Code of Practice all fees, costs, charges and expenses reasonably incurred by the Canal & River Trust—

- (a) in constructing any protective works reasonably required under the provisions of paragraph 86(3)(a);
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction or repair of a specified work and any protective works;
- (c) [in respect of the employment during the construction of the specified works or any protective works of any inspectors, watchmen and other persons whom it is reasonably necessary to appoint for inspecting, watching and lighting any waterway and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works or any protective works;]

- (d) in bringing the specified works or any protective works to the notice of users of the Canal & River Trust's network; and
- (e) in constructing and/or carrying out any measures related to any specified works or protective works which are reasonably required by the Canal & River Trust to ensure the safe navigation of the waterway save that nothing is to require the Canal & River Trust to construct and/or carry out any measures.

### **Making good of detriment; compensation and indemnity, etc.**

**95.**—(1) If any detriment is caused by the construction or failure of the specified works or the protective works if carried out by the undertaker, the undertaker (if so required by the Canal & River Trust) must make good such detriment and must pay to the Canal & River Trust all reasonable expenses properly incurred by the Canal & River Trust, and compensation for any loss sustained by the Canal & River Trust in making good or otherwise by reason of the detriment, provided that at all times Canal & River Trust will be under an obligation to take reasonable steps to mitigate its loss, and always excluding any consequential loss or indirect losses.

(2) The undertaker must be responsible for and make good to the Canal & River Trust all costs, charges, damages, expenses and losses not otherwise provided for in this Part which may be occasioned to and reasonably incurred by the Canal & River Trust—

- (a) by reason of the construction of a specified work or a protective work or the failure of such a work; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon the construction of a specified work or protective work;

and subject to sub-paragraph (4) the undertaker must effectively indemnify and hold harmless the Canal & River Trust from and against all claims and demands arising out of or in connection with any of the matters referred to in sub-paragraphs (a) and (b), provided that at all times Canal & River Trust will be under an obligation to take reasonable steps to mitigate its loss, and always excluding any consequential loss or indirect loss.

(3) The fact that any act or thing may have been done by the Canal & River Trust on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision or in accordance with any directions or awards of an arbitrator is not to (if it was done without negligence on the part of the Canal & River Trust or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this paragraph.

(4) Nothing in sub-paragraph (2) imposes any liability on the undertaker with respect to any detriment, damage, loss or interruption to the extent that it is attributable to the act, neglect or default of the Canal & River Trust, its officers, servants, contractors or agents.

(5) The Canal & River Trust must give the undertaker reasonable notice of any such claim or demand as aforesaid and no settlement or compromise of such a claim or demand is to be made without the prior consent of the undertaker.

### **Arbitration**

**96.** Any difference arising between the undertaker and the Canal & River Trust under this Part (other than a difference as to the meaning or construction of this Part) must be referred to and settled by arbitration in accordance with article 49 (arbitration) of this Order.

### **Capitalised sums**

**97.** Any capitalised sum which is required to be paid under this Part must be calculated by multiplying the reasonable cost of the maintenance or renewal works to the waterway necessitated as a result of the operation of the authorised development by the number of times that the maintenance or renewal works will be required during the operation of the authorised development.



## PART 8

### For the protection of SP Manweb

#### Application

98. The following provisions have effect for the protection of SP Manweb unless otherwise agreed in writing between the undertaker and SP Manweb.

#### Interpretation

99. In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to enable SP Manweb to fulfil its statutory functions in a manner no less efficient than previously (to the reasonable satisfaction of SP Manweb);

“apparatus” means electric lines or electrical plant as defined in the 1989 Act, belonging to or maintained by SP Manweb together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of SP Manweb for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as is given to the term “authorised development” in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Schedule;

“commence” has the same meaning as in article 2 of this Order and commencement must be construed to have the same meaning;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of SP Manweb including construct, use, repair, alter, inspect, renew or remove the apparatus;

“non-intrusive works” means any of the authorised development or activities undertaken in association with the authorised development which will or may be situated underneath electrical lines, or otherwise within 15 meters (measured in any direction) of any apparatus the removal of which has not been required by the undertaker under paragraph 102(2) or otherwise, but which:

- (a) is situated further than 15 meters from any electrical plant or electricity tower foundations the removal of which has not been required by the undertaker under paragraph 102(2) or otherwise; and
- (b) is not reasonably likely to adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 102(2) or otherwise;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“protective works” means the underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused by the carrying out, maintenance or use of the authorised development;

“SP Manweb” means SP Manweb PLC (Company No. 02366937) whose registered office is at 3 Prenton Way, Prenton, CH43 3ET or any successor company;

“specified works” means any of the authorised development or activities undertaken in association with the authorised development which:

- (a) will or may be situated over, or within 15 metres (measured in any direction) of any apparatus the removal of which has not been required by the undertaker under paragraph 102(2) or otherwise;
  - (i) is reasonably likely to adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 102(2) or otherwise; and/or
  - (ii) include any of the activities that are referred to in SP Manweb’s polices for development near overhead lines EN43-8 and HSE’s guidance note 6 “Avoidance of Danger from Overhead Lines”.

### **On Street Apparatus**

**100.** Except for paragraphs 104, 105 and 106 of this Part of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of SP Manweb, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and SP Manweb are regulated by the provisions of Part 3 of the 1991 Act.

### **Acquisition of land**

**101.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire or take temporary possession of any land interest of SP Manweb or appropriate, acquire, extinguish, interfere with or override any easement or other interest or right and/or apparatus of SP Manweb otherwise than by agreement (such agreement not to be unreasonably withheld or delayed).

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between SP Manweb and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of SP Manweb and/or affects the provisions of any enactment or agreement regulating the relations between SP Manweb and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as SP Manweb reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between SP Manweb and the undertaker acting reasonably and which must be no less favourable on the whole to SP Manweb unless otherwise agreed by SP Manweb, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development.

(3) Where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by SP Manweb and/or other enactments relied upon by SP Manweb as of right or other use in relation to the apparatus, then the provisions in this Schedule must prevail.

(4) No agreement or consent granted by SP Manweb under any other paragraph of this Part of this Schedule constitutes agreement under sub-paragraph (1).

### **Removal of apparatus**

**102.**—(1) If, in the exercise of the agreement reached in accordance with paragraph 101 or in any other authorised manner, including in the exercise of powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of SP Manweb to maintain that apparatus in

that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of SP Manweb in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any specified works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to SP Manweb at least 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order SP Manweb reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to SP Manweb to its satisfaction (taking into account paragraph 105(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the use and maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, SP Manweb must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such position as may be agreed between SP Manweb and the undertaker.

(5) SP Manweb must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to SP Manweb of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by SP Manweb and/or other enactments relied upon by SP Manweb as of right or other use in relation to the apparatus, then the provisions in this Schedule must prevail.

### **Facilities and rights for alternative apparatus**

**103.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for SP Manweb facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and SP Manweb acting reasonably and must be no less favourable on the whole to SP Manweb than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by SP Manweb.

(2) If the facilities and rights to be afforded by the undertaker and agreed with SP Manweb under sub-paragraph (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to SP Manweb than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 110 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to SP Manweb as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case. In respect of the appointment of an arbitrator under this sub-paragraph, article 49 (arbitration) applies.

## **Retained apparatus: Protection of SP Manweb as Electricity Undertaker**

**104.**—(1) Not less than 56 days before the commencement of any specified works, the undertaker must submit to SP Manweb a plan of the works to be executed and seek from SP Manweb details of the underground extent of their electricity tower foundations.

(2) In relation to specified works which will or may be situated on, over, under or within (i) 15 metres measured in any direction of any apparatus, or (ii) involve embankment works within 15 metres of any apparatus, the plan to be submitted to SP Manweb under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the specified works;
- (b) the level at which the specified works are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) In relation to any specified works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity support or between any two or more adjacent electricity supports which are within the Order limits or within 10 metres of the Order limits, the plan to be submitted under sub-paragraph (1) must include a method statement which, in addition to the matters set out in sub-paragraph (2), must—

- (a) describe details of any pipeline trench design including route, dimensions, clearance to support foundations;
- (b) demonstrate that support foundations will not be affected prior to, during and post construction;
- (c) describe load bearing capacities of trench supporting structures;
- (d) describe details of any pipeline installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) provide a written management plan for high voltage hazard during construction and ongoing maintenance of the pipeline corridor;
- (f) provide written details of the operations and maintenance regime for the pipeline, including frequency and method of access;
- (g) provide an assessment of earth rise potential if reasonably required by SP Manweb's engineers;
- (h) provide evidence that trench bearing capacity is to be designed to 26 tonnes to take the weight of overhead line construction traffic.

(4) The undertaker must not commence any works to which sub-paragraph (2) or (3) applies until SP Manweb has given written approval of the plan so submitted provided that SP Manweb must not unreasonably delay notification of its approval or disapproval.

(5) Any approval of SP Manweb required under sub-paragraph (2)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,
- (b) must not be unreasonably withheld or delayed.

(6) If after the expiry of 56 days SP Manweb has not communicated approval or disapproval, SP Manweb is deemed to have approved the plans as supplied.

(7) In relation to any work requiring the submission of a plan under sub-paragraph (1), SP Manweb may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus and SP Manweb must

notify the undertaker of such modifications within a period of 56 days beginning with the date on which the plan required under sub-paragraph (1) has been submitted to SP Manweb.

(8) Works requiring the submission of a plan under sub-paragraph (1) must only be executed in accordance with the plan as approved or as amended from time to time by agreement between the undertaker and SP Manweb and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5), (7), (9) or (10) by SP Manweb for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and SP Manweb will be entitled to watch and inspect the execution of those works.

(9) Where SP Manweb reasonably requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to SP Manweb's reasonable satisfaction prior to the commencement of any relevant part of the authorised development for which protective works are required and SP Manweb must give notice of its requirement for such works within 56 days from the date of submission of a plan pursuant to sub-paragraph (1) or (7) (except in an emergency).

(10) If SP Manweb in accordance with sub-paragraphs (7) or (9) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (5) to (8) apply as if the removal of the apparatus had been required by the undertaker under paragraph 102(2).

(11) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph must apply to and in respect of the new plan.

(12) The undertaker must not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to SP Manweb notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (7), (8) and (9) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (13) at all times.

(13) At all times when carrying out any works authorised under the Order, the undertaker must comply with statutory requirements and guidelines for development near overhead lines EN43-8, HSE's guidance note 6 "Avoidance of Danger from Overhead Lines", and any other appropriate guidance in relation to any apparatus and aligning with SP Manweb guidelines.

(14) Not less than 56 days before the commencement of any non-intrusive works, the undertaker must notify and submit to SP Manweb a plan of the works to be executed, noting that approval of plans for non-intrusive works is not required.

## **Expenses**

**105.**—(1) Subject to the following provisions of this paragraph, the undertaker must pay to SP Manweb within 30 days of receipt of an itemised invoice or claim from SP Manweb all reasonable charges, costs and expenses reasonably and properly incurred by SP Manweb in the execution of any authorised development, always excluding any consequential loss or indirect loss, and including without limitation in respect of: —

- (a) any costs reasonably and properly incurred by or compensation properly paid by SP Manweb in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by SP Manweb as a consequence of SP Manweb;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 102(3); and/or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting SP Manweb;

- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of reasonable protective works (including any reasonable temporary protective works and their removal);
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 110 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to SP Manweb by virtue of sub-paragraph (1) will be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to SP Manweb in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on SP Manweb any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

## **Indemnity**

**106.**—(1) Subject to sub-paragraphs (2) and (3), if by reason of the construction of any such works authorised by this Part of this Schedule or of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of SP Manweb, or if there is any interruption in any service provided, or in the supply of any goods by SP Manweb, or SP Manweb becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay on demand accompanied by an invoice or claim and associated itemised accounting from from SP Manweb the cost reasonably and properly incurred by SP Manweb in making good such damage or restoring the supply; and
- (b) indemnify SP Manweb for any other expenses, loss, demands, proceedings, damages, claims, penalties or costs incurred by or recovered from SP Manweb, by reason of any such damage or interruption or SP Manweb becoming liable to any third party as aforesaid other than arising from any default of SP Manweb

always excluding any consequential loss or indirect loss and provided that at all times SP Manweb will be under an obligation to take reasonable steps to mitigate its loss.

(2) The fact that any act or thing may have been done by SP Manweb on behalf of the undertaker or in accordance with a plan approved by SP Manweb or in accordance with any requirement of SP Manweb as a consequence of the authorised development or under its supervision does not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this paragraph where the undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workmanlike manner or in a manner that does not materially accord with the approved plan (or as otherwise agreed between the undertaker and SP Manweb pursuant to paragraph 105).

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of SP Manweb, its officers, employees, contractors or agents;
- (b) any authorised development and/or any other works authorised by this Part of this Schedule carried out by SP Manweb as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the 2008 Act or article 7 (benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised development yet to be executed and not falling within this sub-paragraph 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph in respect of such new apparatus; and / or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption.

(4) SP Manweb must give the undertaker reasonable notice of any claim or demand and no settlement, admission of liability or compromise or demand, unless payment is required in connection with a statutory compensation scheme, is to be made without first consulting the undertaker and considering its representations.

### **Enactments and agreements**

**107.** Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between SP Manweb and the undertaker, nothing in this Part of this Schedule will affect the provisions of any enactment or agreement regulating the relations between the undertaker and SP Manweb in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

**108.**—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or SP Manweb requires the removal of apparatus under paragraph 102(2) or SP Manweb makes requirements for the protection or alteration of apparatus under paragraph 104, the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of SP Manweb’s undertaking and SP Manweb must use all reasonable endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever SP Manweb's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by SP Manweb is required, it must not be unreasonably withheld or delayed.

### **Access**

**109.** If in consequence of the agreement reached in accordance with paragraph 101(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable SP Manweb to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

**110.** Save for differences or disputes arising under paragraphs 102(2), 102(4), 103(1) and 104 any difference or dispute arising between the undertaker and SP Manweb under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and SP Manweb, determined by arbitration in accordance with article 49 (arbitration).

### **Notices**

**111.** Notwithstanding article 46 (service of notices), any plans submitted to SP Manweb by the undertaker pursuant to this Part must be sent to such address as SP Manweb may from time to time appoint instead for that purpose and notify to the undertaker in writing.

## **PART 9**

### **Protection of CF Fertilisers UK Limited**

**112.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and CF Fertilisers.

**113.** In this Part—

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"CF Fertilisers" means CF Fertilisers UK Limited (company number 03455690), whose registered office is at Head Office Building, Ince, Chester, Cheshire, United Kingdom, CH2 4LB and any associated company of CF Fertilisers UK Limited which holds relevant property;

"relevant property" means:

- (a) any land, works, apparatus and equipment belonging to CF Fertilisers; and
- (b) any easement or other property interest held or used by CF Fertilisers or a tenant or licensee of CF Fertilisers for the purposes of such land, works, apparatus or equipment.

### **Rights of access**

**114.** Regardless of any provision of this Order or anything shown on the land plans, the undertaker-

- (a) must not extinguish any rights of access to the relevant property granted to CF Fertilisers otherwise than by agreement (both parties acting reasonably);
- (b) must provide a minimum of two working days notification prior to entry to the relevant property; and
- (c) must keep any existing roads used for access to the relevant property by CF Fertilisers clear from obstruction as far as reasonably practicable.



## Expenses

**115.** Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of CF Fertilisers or its servants, contractors or agents or any liability on CF Fertilisers with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

**116.** The undertaker must pay to CF Fertilisers all reasonable and proper costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (but always excluding any consequential loss or indirect loss) which may be reasonably incurred by CF Fertilisers in respect of any damage caused to or additional maintenance required to relevant property as a direct result of the construction of the authorised development.

**117.** (1) Notwithstanding anything to the contrary in this Part of this Schedule, the undertaker shall not be liable for any consequential loss or indirect loss suffered by CF Fertilisers as a result of the construction of the authorised development and CF Fertilisers shall not be liable for any consequential loss or indirect loss suffered by the undertaker as a result of the construction of the authorised development.

(2) CF Fertilisers must-

- (a) give the undertaker reasonable written notice of any such sums referred to in paragraph 116 as soon as reasonably possible after CF Fertilisers become aware of the same;
- (b) not make any offers to settle claims or demands without the prior consent of the undertaker;
- (c) take all reasonable steps to mitigate any liabilities; and
- (d) keep the undertaker informed and have regard to the undertaker's representations in relation to any such sums referred to in paragraph 116.

## PART 10

### For the protection of Wales and West Utilities

**118.** For the protection of Wales and West Utilities as referred to in this part of this Schedule the provisions of this Part have effect unless otherwise agreed in writing between the undertaker and Wales and West Utilities.

**119.** In this Part—

“alternative apparatus” means alternative apparatus adequate to enable Wales and West Utilities to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means all mains, pipes or other apparatus belonging to or maintained by Wales and West Utilities for the purposes of carrying out its statutory undertaking and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as in article 2 (interpretation) of this Order and (unless otherwise specified) for the purposes of this Schedule shall include associated development and the construction, use, maintenance and decommissioning of the authorised development and the construction of any authorised development;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

“protective works” means the underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused by the carrying out, maintenance or use of the authorised development;

“security infrastructure” includes cameras, perimeter fencing, fencing and gates and any other security measures required in order to ensure an appropriate level of security in respect of the authorised development or any apparatus;

“specified work” means so much of any of the works comprised in the authorised development or activities undertaken in association with the authorised development which:

- (a) are in, on or under any land purchased, leased, held, appropriated or used under this Order that are within 15 metres of, or will or may in any way affect, any apparatus the removal of which is not required under paragraph 123 of this Part of this Schedule; and/or
- (b) will or may be situated within 4 metres measured in any direction of any security infrastructure belonging to or maintained by Wales and West Utilities;

“WWU standards” means Wales and West Utilities Limited specification for safe working in the vicinity of pipelines and associated installations operating above 2 barg – requirements for third parties (SSW22) and Plant Protection General Conditions; and

“Wales and West Utilities” means Wales and West Utilities Limited (Company No. 05046791) whose registered office is at Wales & West House, Spooner Close Coedkernew, Newport, South Wales, NP10 8FZ and includes any successor in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986.

### **Apparatus in streets**

**120.** This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Wales and West Utilities are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act;

**121.** Regardless of the temporary prohibition or restriction of use of public rights of way or streets under the powers conferred by article 13 (temporary restriction of public right of way) and 15 (temporary restriction of use of streets), Wales and West Utilities is at liberty at all times to take all reasonably necessary access across any such public right of way or street and to execute and do all such works and things in upon or under any such public right of way or street as may be reasonably necessary to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that public right of way or street.

### **Acquisition of land**

**122.** Regardless of any provision of this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker must not (a) appropriate or acquire or take temporary possession of apparatus or (b) appropriate, acquire or extinguish interfere with or override any easement, other interest or right and/or apparatus any apparatus belonging to or maintained by Wales and West Utilities otherwise than by agreement, provided that such agreement is not unreasonably delayed or withheld.

### **Removal of apparatus**

**123.—**(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 118, the undertaker acquires any interest in, on or under any land in which any apparatus is placed or over which access is enjoyed and requires Wales and West Utilities’ apparatus is relocated or diverted, that apparatus must not be decommissioned or removed under this Part, and any right of Wales and West Utilities to maintain that apparatus in that land and to gain access to it must not be extinguished or interfered with until alternative apparatus has been constructed and is in operation and the facilities and rights referred to in sub-paragraph (2) to the reasonable satisfaction of Wales and West Utilities.

(2) If, for the purpose of executing any works in, on or under any land purchased, leased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Wales and West Utilities at least 28 days’ written notice of that requirement, together with a plan, description, risk assessment method statement and section drawing of the work proposed which complies with WWU standards, and of the proposed position

of the alternative apparatus to be provided or constructed; and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Wales and West Utilities reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Wales and West Utilities the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of and access to that apparatus and any appropriate working areas.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, Wales and West Utilities must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between Wales and West Utilities and the undertaker or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

(5) Wales and West Utilities must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 49 (arbitration), and after the grant to Wales and West Utilities of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove or decommission any apparatus required by the undertaker to be removed or decommissioned under the provisions of this Part.

#### **Facilities and rights for alternative apparatus**

**124.**—(1) Where, in accordance with the provisions of this Part, the undertaker affords to Wales and West Utilities facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed or decommissioned, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Wales and West Utilities or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along the authorised development, the arbitrator must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus that may be required to prevent interference with any proposed works of the undertaker;
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the authorised project for which the alternative apparatus is to be substituted; and
- (c) avoid any unreasonable adverse impact on Wales and West Utilities' operations or apparatus.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Wales and West Utilities than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Wales and West Utilities as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

#### **Retained apparatus**

**125.**—(1) Not less than 42 days before starting the execution of any specified works in, on or under any land purchased, leased, held, appropriated or used under this Order that are near to, or

will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 123(2), the undertaker must submit to Wales and West Utilities a plan, section drawing, description of the works to be executed and a risk assessment method statement which comply with WWU standards.

(2) Those works must be executed only in accordance with the plan, section drawing, description and risk assessment method statement submitted under sub-paragraph (1) and in accordance with WWU standards and such reasonable requirements as may be made in accordance with sub-paragraph (3) by Wales and West Utilities for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Wales and West Utilities is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Wales and West Utilities under sub-paragraph (2) must be made within a period of 42 days beginning with the date on which a plan, section drawing, description, and risk assessment method statement under sub-paragraph (1) is submitted to it.

(4) If Wales and West Utilities, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal or decommissioning of any apparatus or any reasonably necessary protective works and gives written notice to the undertaker of that requirement, the provisions of this Part apply as if the removal or decommissioning of the apparatus or the protective works had been required by the undertaker under paragraph 123(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 42 days before commencing the execution of any works, a new plan instead of the plan, section drawing, description and risk assessment method statement previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section drawing, description and risk assessment method statement.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to Wales and West Utilities notice as soon as is reasonably practicable and a plan, section drawing, description and risk assessment method statement of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

(7) Where the specified works only include ground investigation or PAS128 Cat A surveys, all timeframes in this paragraph shall be reduced to 14 days.

### **Expenses and costs**

**126.**—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Wales and West Utilities within 30 days of a request by Wales and West Utilities the reasonable expenses agreed with the undertaker in advance and reasonably incurred by Wales and West Utilities in the inspection, removal, relaying or replacing, alteration or protection of any apparatus or security infrastructure of the construction of any new apparatus or security infrastructure which may be required in direct consequence of the execution of any such works as are referred to in paragraph 123(2) or any specified work, but always provided that the undertaker shall not be liable under any circumstances for any consequential loss or indirect loss suffered by Wales and West Utilities.

(2) The value of any apparatus removed under the provisions of this Part must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 49 (arbitration) to be necessary then, if such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity

or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Wales and West Utilities in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Wales and West Utilities any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

**127.**—(1) Subject to sub-paragraph (2), if by reason or in consequence of the construction of any such works referred to in paragraph 6(2) or any specified work any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Wales and West Utilities, or there is any interruption in any service provided, or in the supply of any goods, by Wales and West Utilities, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Wales and West Utilities in making good such damage or restoring the supply; and
- (b) make reasonable compensation to Wales and West Utilities for any other expenses, loss, damages, penalty or costs incurred by Wales and West Utilities,

as a direct result of any such damage or interruption and always provided that the undertaker shall not be liable under any circumstances for any consequential loss or indirect loss suffered by Wales and West Utilities.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Wales and West Utilities, its officers, servants, contractors or agents.

(3) Wales and West Utilities must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker unless payment is required and the level specified in accordance with a statutory compensation scheme and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand provided that the undertaker consults Wales and West Utilities and takes any representations it makes into account.

### **Enactments and agreements**

**128.** Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and Wales and West Utilities in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

## **PART 11**

### **Protection for Welsh Water**

**129.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and Welsh Water.

**130.** In this Part—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) mains, pipes or other apparatus belonging to or maintained by that water undertaker for the purposes of water supply; and
- (b) any drain or works vested in the sewerage undertaker under the Water Industry Act 1991; and
- (c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewerage disposal works, at future date) of that Act;

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed; and

“utility undertaker” means—

- (a) a water undertaker within the meaning of the Water Industry Act 1991; and
- (b) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

### **On street apparatus**

**131.** This Part does not apply to—

- (a) apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

### **Acquisition of land**

**132.** Regardless of any provision of this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

### **Removal of apparatus**

**133.—(1)** If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker’s apparatus is relocated or diverted, that apparatus must not be removed under this Part, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days’ written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the

alternative apparatus to be provided or constructed; and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 49 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

### **Facilities and rights for alternative apparatus**

**134.**—(1) Where, in accordance with the provisions of this Part, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along the authorised development, the arbitrator must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus that may be required to prevent interference with any proposed works of the undertaker; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the authorised project for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms

and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus**

**135.**—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 133(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, the provisions of this Part apply as if the removal of the apparatus had been required by the undertaker under paragraph 133(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

### **Expenses and costs**

**136.**—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses agreed with the undertaker in advance and reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 133(2).

(2) The value of any apparatus removed under the provisions of this Part must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 49 (arbitration) to be necessary then, if such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.



(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

**137.**—(1) Subject to sub-paragraph (2), if by reason or in consequence of the construction of any such works referred to in paragraph 133(2) any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

### **Miscellaneous**

**138.** Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

## **PART 12**

For the protection of United Utilities Water Limited (UU Water)

### **Application**

**139.** For the protection of UU Water the following provisions, unless otherwise agreed in writing between the undertaker and UU Water, have effect.

### **Interpretation**

**140.** In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of UU Water to enable UU Water to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any treatment works, reservoirs, pumping stations, water mains, sewers, drains, sludge mains, disposal mains, pipes or any accessories (including those within the meaning of section 219 of the Water Industry Act 1991) vested in UU Water under the Water Industry Act 1991 and any preceding legislation or other apparatus belonging to or maintained by UU Water for the purposes of UU Water’s undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of UU Water for the purposes of UU Water’s undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 of the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“Estimate” means a reasonable estimate of the total reasonable and proper costs that UU Water expects to incur in respect of staff and orders or instructions that need to be given to UU Water’s vendors in its supply chain or to third party organisations to obtain their consent in respect of the specified works.

“facilities and rights” for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance activity, and any necessary rights of access;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by UU Water (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground conditions and vibration which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels and water supplies are to be monitored (including turbidity), the timescales of any monitoring activities and the extent of ground subsidence, dewatering and / or vibration which, if exceeded, shall require the undertaker to submit for UU Water’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence, ground dewatering or vibration identified by the monitoring activities set out in the ground monitoring scheme that has exceeded or reasonably has the potential to exceed the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” (in a context referring to apparatus or alternative apparatus in land) includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” have effect as if the term maintain includes protect and use;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary to properly and sufficiently describe and assess the works to be executed;

“protective works” means any works that are reasonably necessary to protect UU Water’s services to its customers and its apparatus from damage that may be caused by the carrying out, maintenance or use of the authorised development;

“rights” includes restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

“specified works” means any of the authorised works or activities (including maintenance) undertaken in association with the authorised development (including maintenance and notwithstanding the definition of “commence” in Article 2 of this Order) including but not

limited to any intrusive site preparation works, intrusive remediation works, intrusive surveys and investigations (including archaeological, utility or soil surveys), erection of temporary fencing requiring intrusive supports, intrusive marking out of site boundaries, diversion or laying of services or intrusive environmental mitigation measures and any such temporary access by HGVs or LGVs that may be required in association with these, and which—

- (a) when involving a pipe up to and including 300mm in diameter, will or may be situated over, or within 3000mm measured in any direction of any apparatus, the removal of which has not been required by the undertaker under sub-paragraph 144(2) or otherwise;
- (b) when involving a pipe exceeding 300mm in diameter, will or may be situated over, or within 5000mm measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 144(2) or otherwise ;or
- (c) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 144(2) or otherwise;

“UU Water” means United Utilities Water Limited (company number 02366678), registered office at Haweswater House, Lingley Mere Business Park, Lingley Green Avenue, Great Sankey, Warrington, WA5 3LP and includes its successors in title or any successor as a water and sewerage undertaker within the meaning of the Water Industry Act 1991; and

“UU Water’s undertaking” means the rights, duties and obligations of United Utilities Water Limited as a water and sewerage undertaker under the Water Industry Act 1991.

#### **Apparatus of UU Water stopped up in street**

**141.** Notwithstanding the temporary alteration, diversion or restriction of use of any street under the powers of article 15 (temporary restriction of use of streets) UU Water will be at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary alteration, diversion or restriction in respect of any apparatus which at the time of the stopping up or diversion was in that street

#### **Discharge of Water, foul and surface water**

**142.—**(1) If the undertaker proposes to connect foul water to a public sewer operated by UU Water, the undertaker shall give to UU Water notice of the proposal, and within 42 days of the receipt by them of the notice, UU Water may refuse permission for the connection but only if it has reasonable grounds for doing so, or it may grant permission for the connection or alteration, subject to such reasonable conditions as it thinks fit acting reasonably. Any such permission may in particular specify the mode and point of connection.

(2) If the undertaker proposes to connect surface water to a public sewer operated by UU Water, the undertaker shall give to UU Water notice of the proposal, and within 42 days of the receipt by them of the notice, UU Water may refuse permission for the connection, but only if it has reasonable grounds for doing so, or it may grant permission for the connection or alteration, subject to such reasonable conditions as it thinks fit acting reasonably. Any such permission may in particular specify the mode, the point of connection, the rate of discharge and the size of any attenuation necessary. UU Water shall be entitled to refuse any connection where the sustainable drainage system hierarchy for managing surface water has not been reasonably investigated and / or sustainable drainage has not been incorporated within the proposed surface water drainage to the satisfaction of UU Water;

(3) Where there are separate public sewers for foul water and surface water, UU Water may prohibit the discharge of foul water into the public sewer reserved for surface water, and prohibit the discharge of surface water into the public sewer reserved for foul water

(4) Where UU Water has not granted or refused permission under this paragraph within 42 days from the receipt of notice of a proposal the permission shall be deemed to be granted

(5) Nothing in this section entitles the undertaker to:

- (a) discharge in to a public sewer (directly or indirectly), highway drainage, groundwater, trade effluent or any liquid or other matter, the discharge of which in to a public sewer is prohibited by or under any enactment; or
- (b) have drains or sewers that communicate directly with a storm water overflow.

### **Protective works to buildings**

**143.** The undertaker must exercise the powers conferred by article 23 (protective work to buildings) so as not to obstruct or render less convenient the access to any apparatus without the written consent of UU Water (such consent not to be unreasonably withheld or delayed) and if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in the view of its intended removal or abandonment) or property of UU Water or any interruption in the supply of water and the provision of sewerage services by UU Water, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred and documented by UU Water in making good such damage or restoring the supply; and, shall – pay compensation to UU Water for any loss sustained by reason of any such damage or interruption.

### **Removal of apparatus**

**144.—(1)** If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 143, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed and any right of UU Water to maintain that apparatus in that land must not be extinguished or interfered with until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of UU Water and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to UU Water advance written notice of not less than 70 days of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order UU Water reasonably needs to move or remove any of its apparatus) the undertaker must afford to UU Water to its reasonable satisfaction the necessary facilities and rights—

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by UU Water in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by UU Water in respect of the apparatus); and
- (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by UU Water in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, UU Water must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for UU Water to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such position as may be agreed between UU Water and the undertaker, each acting reasonably.

(5) UU Water must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to UU Water of such facilities and rights as are referred to in sub-

paragraph (2) or (3), then proceed without unnecessary delay to construct and bring in to operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

### **Facilities and rights for alternative apparatus**

**145.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for UU Water facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and UU Water, each acting reasonably, and must be no less favourable on the whole to UU Water than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by UU Water.

(2) If the facilities and rights to be afforded by the undertaker and agreed with UU Water under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to UU Water than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed, then the terms and conditions to which those facilities and rights are subject may be referred to arbitration in accordance with paragraph 149 of this Part of this Schedule and the arbitrator must make such provision for the payment of reasonable compensation by the undertaker to UU Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus: protection of UU Water**

**146.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to UU Water a plan and, if reasonably required by UU Water, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to UU Water under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of
- (d) excavation, positioning of plant etc.;
- (e) the position of all apparatus, identified if necessary by survey or investigation works carried out with the prior agreement and to the reasonable satisfaction of UU Water;
- (f) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (g) any intended maintenance regimes.

(3) the undertaker must not commence any specified works until UU Water has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of UU Water given under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and
- (b) must not be unreasonably withheld or delayed and UU Water and any approval or refusal must be provided to the undertaker within 56 days of the date of submission of the plan under sub-paragraph (1).

(5) UU Water may require protective works or such modifications to be made to the plan as may be reasonably necessary for the purpose of maintaining services to its customers, or securing its apparatus against interference or risk of damage, or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Specified works must only be executed in accordance with—

- (a) the plan submitted under sub-paragraph (1) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and UU Water; and
- (b) all conditions imposed under sub-paragraph (4)(a), and UU Water will be entitled to watch and inspect the execution of those works.

(7) Where UU Water reasonably requires any protective works or such modifications to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works or modifications, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to UU Water's reasonable satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which such protective works or modifications are required prior to commencement.

(8) If UU Water, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 139 to 141 and 143 to 145 apply as if the removal of the apparatus had been required by the undertaker under paragraph 144(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) As soon as is reasonably practicable after any ground subsidence event attributable to the authorised works (including such an event attributable to its maintenance)—

- (a) the undertaker must implement an appropriate ground mitigation scheme; and
- (b) UU Water retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such reasonable and documented costs in line with paragraph 147.

(11) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to UU Water notice as soon as is reasonably practicable and a plan of those works and must comply with the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances.

(12) In this paragraph, "emergency works" means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to life or property or the environment, and to any interruption of a supply of water provided to any premises and to any interruption of the provision of sewerage services to any premises.

## **Expenses**

**147.**—(1) At the same time as any written notice is provided by UU Water in accordance with paragraph 146(8), UU Water shall also submit an Estimate to the undertaker.

(2) If the undertaker elects that it will proceed with the specified works it shall make an advance payment of the Estimate to UU Water no later than 28 days prior to the planned commencement of the specified works. The undertaker shall not commence the specified works until a minimum of 28 days of receipt by UU Water of the advance payment.

(3) If at any point UU Water's Estimate is forecast to be exceeded, UU Water shall submit an early warning notification and then a change request documenting all costs already incurred and forecast to be reasonably incurred and submit an updated Estimate to the undertaker no less than 28 days prior to the Estimate being reasonably expected to be exceeded. The undertaker shall make such additional payment required by the updated Estimate as soon as reasonably possible and in any event no later than 56 days after receipt of the updated Estimate.

(4) Where the undertaker fails to make such additional payment required under sub-paragraph (3) within 56 days of receipt of the updated Estimate, UU Water will be entitled to require the undertaker to suspend works from the point at which the charges, costs and expenses reach or exceed

the Estimate. In addition any reasonable abortive/demobilisation costs resulting from this would be recoverable by UU Water from the undertaker.

(5) In the event of any dispute as to the reasonableness of costs included in an updated Estimate submitted under sub-paragraph (3), UU Water must not exercise the powers of sub-paragraph (4) until the dispute has been finally determined.

(6) Subject to the following provisions of this paragraph, UU Water' will retain an account of all its direct charges, costs and expenses reasonably incurred and documented by UU Water in the design, planning, inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus required as a direct result of the execution of any authorised works including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by UU Water in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including reasonable costs (including professional fees) incurred by UU Water as a consequence of UU Water;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 5(3) if it elects to do so; or
  - (ii) exercising any compulsory purchase powers under this Order transferred to or benefitting UU Water;
- (b) in connection with the cost of the carrying out of any necessary diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works, the provision of network contingency measures or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;
- (g) any watching brief pursuant to sub-paragraph 145(6);.
- (h) in connection with an assessment of flood risk from UU Water apparatus (note above comment about whether this apparatus includes a reservoir);
- (i) in connection with an assessment of the impact on a UU Water outfall;
- (j) any relevant charges in accordance with the charges scheme under the Water Industry Act 1991.

(7) UU Water shall give the undertaker regular actual and forecast cost updates at intervals to be agreed between UU Water and the undertaker, each acting reasonably.

(8) Within 90 days of completion of the specified works, UU Water shall reconcile its accounts with its supply chain and collate its internal costs and advise the undertaker of the final account position. Within 28 days of this final account, UU shall reimburse the undertaker of all remaining monies that were received as part of any advance payment arrangements. If the final account is above the Estimate, the undertaker will be required to pay UU Water within 28 days of submission of the final account.

(9) UU Water may in carrying out works, elect to place —

- (a) alternative apparatus of a better type, or greater capacity or of greater dimensions in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions save where this has been solely due to using the nearest currently available type (or where it is more economical overall or there is no practical alternative to the relevant course of action, including where the same is mandated by UU Water's Standards); or
- (b) existing or alternative apparatus at a depth greater than the depth at which the existing apparatus was situated save for where the requirement for a greater depth cannot reasonably be avoided, (a "Betterment").

(10) The twinning of assets crossing the authorised works or similar initiatives to provide resilience to UU Water's network in accordance with the prevailing business and engineering requirements may be necessary, in circumstances in which the proposed authorised works will compromise the future access or present an unacceptable operational or business risk to the relevant asset (without interference with the authorised work), and such twinning or similar arrangement is not Betterment. Where UU Water can demonstrate on a case by case basis that the particular asset is critical (for example, it is critical to the provision of water or wastewater services, or the authorised works cannot accommodate a like for like asset replacement, or there is no alternative means of maintaining services to customers by bypassing the asset under the authorised works), the twinning of assets crossing the authorised works or similar arrangement is not Betterment.

(11) Where UU Water has elected to place apparatus which is assessed and agreed by UU Water as Betterment, the undertaker shall not be required to cover any additional cost associated with that Betterment. Any such assessment and decision by UU Water on whether such apparatus is Betterment or not shall always be made by UU Water acting reasonably.

### **Indemnity**

**148.**—(1) If by reason of the authorised works any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of UU Water, or there is any material interruption in any service provided, or in the supply of any goods by UU Water, or UU Water has to take action to protect the services to its customers, or UU Water elects to use its statutory powers, the undertaker must—

- (a) bear and pay the cost reasonably incurred by UU in making good such damage or restoring the supply or use of the UU Water's statutory powers; and
- (b) make reasonable compensation to UU Water for any other expenses, loss, damages, penalty or costs suffered or incurred and documented by UU Water, by reason of any such damage or interruption or use of UU Water's statutory powers,

provided always that UU Water makes all reasonable endeavours to mitigate any such expenses, losses, damages, penalties or costs.

(2) The fact that any act or thing may have been done by UU Water on behalf of the undertaker or in accordance with a plan approved by UU Water or in accordance with any requirement of UU Water or under its supervision does not, excuse the undertaker from liability under the provisions.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of UU Water, its officers, servants, contractors or agents.

(4) Notwithstanding any paragraph or sub-paragraph of this Part of the Schedule, the undertaker shall under no circumstances be liable for any consequential loss or indirect loss suffered by UU Water.

### **Enactments and agreements**

**149.** Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and UU Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

**150.**—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or UU Water requires the removal of apparatus under paragraph 144(2) or UU Water makes requirements for the protection or alteration of apparatus under paragraph 146, the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of UU Water's undertaking, using existing processes



where requested by UU Water, provided it is appropriate to do so, and UU Water must use its reasonable endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever UU Water's consent, agreement or approval is required in relation to plans, documents or other information submitted by UU Water or the taking of action by UU Water, it must not be unreasonably withheld or delayed.

(3) Where the undertaker identifies any apparatus which may belong to or be maintainable by UU Water but which does not appear on any statutory map kept for the purpose by UU Water, it shall inform UU Water of the existence and location of the apparatus as soon as is reasonably practicable.

(4) Where UU Water identifies any apparatus which may belong to Others but which does not appear on any statutory map kept for the purpose by UU Water, it shall inform the undertaker of the existence and location of the apparatus as soon as is reasonably practicable.

(5) The undertaker shall notify UU Water of any hazardous material/contamination encountered in land involving UU apparatus or where sub-paragraphs (a), (b) and/or (c) of the definition of Specified Works applies. UU Water shall likewise notify the undertaker where it believes there is a risk that the undertaker may encounter hazardous material/contamination in such land.

### **Access**

**151.** If in consequence of any agreement reached in accordance with paragraph 139(1) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker shall seek to provide such alternative rights and means of access to such apparatus, to the extent that provision of such rights and means of access is within the ability of the undertaker to grant, as will enable UU Water to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

**152.** Save for differences or disputes arising under paragraph 141(4) any difference or dispute arising between the undertaker and UU Water under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and UU Water, be determined by arbitration in accordance with article 49 (arbitration).

### **Notices**

**153.** Notwithstanding article 46 (service of notices) any plans submitted to UU Water by the undertaker must be sent via email to UU Water s and sent to the General Counsel Department at UU Water's registered office or such other address as UU Water may from time to time appoint instead for that purpose and notify to the undertaker in writing.

## **PART 13**

For the protection of United Kingdom Oil Pipelines Limited

**154.** For the protection of United Kingdom Oil Pipelines Limited

### **Application**

**155.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and UKOP.

### **Interpretation**

**156.** In this Part—

"1991 Act" means the New Roads and Street Works Act 1991;

“alternative apparatus” means alternative apparatus adequate to enable UKOP to fulfil its functions as a private commercial fuel pipeline operator/transporter in a manner no less efficient than previously;

“apparatus” means the whole or any part of any pipeline cable or other apparatus owned or operated by UKOP (or its authorised agents) used in connection with the transmission of hydrocarbon fuel together with any other plant and equipment ancillary thereto (which includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus);

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” and “commencement” in this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed(s) of consent” means any deed of consent, crossing agreement, deed of variation or new deed agreed between the parties acting reasonably in order to vary or replace existing easements, leases, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“ground mitigation scheme” means a scheme approved by UKOP (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for UKOP's approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over across along or upon land;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of UKOP including construct, use, repair, alter, inspect, renew or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 157(2) or otherwise; and/or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 157(2) or otherwise;

“UKOP” means United Kingdom Oil Pipelines Limited (Co. No.00746709) whose registered office is at 5-7 Alexandra Road, Hemel Hempstead, Hertfordshire, HP2 5BS; and

“undertaker” means the undertaker as defined in article 2(1) of this Order.

## **On Street Apparatus**

**157.** Except for paragraph 161 (retained apparatus) and 162 (expenses and costs) of this Part of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of UKOP, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and UKOP are regulated by the provisions of Part 3 of the 1991 Act.

### **Acquisition or possession of land**

**158.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of any apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of UKOP otherwise than by agreement (all such agreement(s) not to be unreasonably withheld or delayed) and unless it grants replacement rights to UKOP in a form agreed between the parties in accordance with the provisions of paragraph 159 (Removal of apparatus) or paragraph 160 (UKOP Replacement facilities and rights).

(2) As a condition of any agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between UKOP and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of UKOP or affect the provisions of any enactment or agreement regulating the relations between UKOP and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as UKOP reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between UKOP and the undertaker, both acting reasonably, and which must be no less favourable on the whole to UKOP unless otherwise agreed by UKOP, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and UKOP agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by UKOP and/or other enactments relied upon by UKOP as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by UKOP under paragraph 161 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

### **Removal of apparatus**

**159.**—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that UKOP's apparatus is relocated or diverted, that apparatus must not be removed under this Part, and any right of UKOP to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of UKOP in accordance with sub-paragraphs (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to UKOP advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order UKOP reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to UKOP

to its reasonable satisfaction (taking into account paragraph 160(1) below) the necessary facilities and rights

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, UKOP must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for UKOP to use its compulsory purchase powers to this end.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between UKOP and the undertaker.

(5) UKOP must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to UKOP of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule

#### **UKOP replacement facilities and rights**

**160.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker is to afford to or secure for UKOP facilities and rights in land for the construction, use, maintenance and protection of apparatus either in substitution for apparatus to be removed (or where existing rights are being sterilized), deeds of consent must be granted upon such terms and conditions as may be agreed between the undertaker and UKOP both acting reasonably and must be no less favourable on the whole to UKOP than the facilities and rights enjoyed by it previously in respect of the apparatus unless otherwise agreed by UKOP and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(2) If the facilities and rights to be afforded by the undertaker pursuant to sub-paragraph (1) above, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to UKOP than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the matter may be referred to arbitration in accordance with paragraph 166 (Arbitration) of this Part of this Schedule the arbitrator must make such provision for the payment of compensation by the undertaker to UKOP as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

#### **Retained apparatus**

**161.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to UKOP a plan and, if reasonably required by UKOP, a ground monitoring scheme in respect of those works taking place within 20 metres of the apparatus.

(2) The plan to be submitted to UKOP under sub-paragraph (1) must include a method statement and describe:-

- (a) the exact position of the works and details of any infrastructure machinery or vehicles to be used in connection therewith;
- (b) the level at which these are proposed to be constructed or renewed;

- (c) the manner of their construction or renewal including details of all excavation, positioning of plant etc and any works' compounds;
- (d) the position of all apparatus and fencelines;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) In relation to any works which will or may be situated within 6.1 metres measured in any direction of any apparatus (the removal of which has not been required by the undertaker under paragraph 157(2) or otherwise), the plan to be submitted under sub-paragraph (1) must also describe:-

- (a) details of any trench design including route, dimensions and clearance to the apparatus;
- (b) demonstration that the apparatus will not be affected prior to, during and post construction; and
- (c) details of load bearing capacities of trenches.

(4) The undertaker must not commence any works to which sub-paragraphs (1), (2) or (3) apply until UKOP has given written approval of the plan so submitted.

(5) UKOP may within 10 working days of initial receipt of the plan submitted under sub-paragraph (1) raise any additional questions or comments or request further information and/or clarification in relation to the plan.

(6) Any approval of UKOP required under sub-paragraph (4):

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (8) or (10); and
- (b) must not be unreasonably withheld or delayed.

(7) UKOP is deemed to have approved the plan as submitted under sub-paragraph (1) if UKOP has not intimated its approval or disapproval of the plan, and the grounds of that disapproval, within 30 working days after the plan or the responses to any additional questions, comments, further information or clarification raised or requested under sub-paragraph (5) has been received by UKOP.

(8) In relation to any work to which sub-paragraphs (1), (2) and/or (3) apply, UKOP may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(9) Works executed under sub-paragraphs (1) or (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and UKOP and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (8) or (10) by UKOP for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and UKOP will be entitled to watch and inspect the execution of those works.

(10) Where UKOP reasonably requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to UKOP's satisfaction, acting reasonably, prior to the commencement of any specified works for which protective works are required and UKOP give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(11) If UKOP in accordance with sub-paragraphs (8) or (10) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (4) and (8) to (10) apply as if the removal of the apparatus had been required by the undertaker under paragraph 159(2)

(12) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a

new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(13) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to UKOP notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (8), (9) and (10) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (14) at all times.

(14) At all times when carrying out any works authorised under the Order the undertaker must ensure that all works comply with:

- (a) Linewatch's Booklet for Special Requirements for safe working in close proximity to high pressure pipelines (rev23.03); and
  - (b) Linesearch Before U Dig (LinesearchbeforeUdig Safety Practices - LinesearchbeforeUdig (lsbud.co.uk)); and
  - (c) The United Kingdom Onshore Pipeline Operators' Association Good Practice Guides (Good Practice Guides | UKOPA); and
  - (d) The Pipeline Safety Regulations 1996; and
  - (e) The Pipe-lines Act 1962;
- (all as updated or replaced from time to time)

(15) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that UKOP retains the right to carry out any further reasonably necessary protective works for the safeguarding of its apparatus and can recover any such reasonable costs in line with paragraph 160 (Expenses and costs).

### **Expenses and costs**

**162.**—(1) Save where otherwise agreed in writing between UKOP and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to UKOP within 25 days of receipt of an itemised invoice or claim from UKOP all charges, costs and expenses (including legal expenses) reasonably and properly incurred by UKOP in, pursuant to, or in connection with these protective provisions, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

- (a) any costs and expenses (including but not limited to reasonable legal expenses) reasonably incurred by or compensation properly paid by UKOP in connection with the acquisition, variation or grant of any rights or the exercise of any statutory powers in respect of such apparatus;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of reasonably required protective works, plus a capitalised sum to cover the reasonable cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary for the execution of any such works referred to in this Part of this Schedule; or
- (g) any costs and expenses (including but not limited to legal expenses) reasonably incurred in assisting the undertaker to procure and/or secure any consent and entering into of any deeds and/or variations by other third parties required in connection with this Part of this Schedule, save that for the avoidance of any doubt:

- (i) the undertaker be directly responsible for the payment of all third party costs and expenses where the undertaker is a party to any such deeds or variations; and
  - (ii) where the undertaker is not a party to such deeds or variations, or where a consent is procured or secured by UKOP, UKOP and the undertaker shall, acting reasonably and without unreasonable delay, agree the amount of third party costs and expenses that can be paid by UKOP to the third party and recovered from the undertaker under this paragraph 162(1).
- (2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.
- (3) If in accordance with the provisions of this Part of this Schedule—
  - (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
  - (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 166 (Arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to UKOP by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.
- (4) For the purposes of sub-paragraph (3)
  - (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
  - (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.
- (5) Any amount which apart from this sub-paragraph would be payable to UKOP in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on UKOP any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.
- (6) Subject to sub-paragraph (2), if by reason or in consequence of the construction of the authorised works (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) on property of UKOP, or there is any interruption in any service provided, or in the supply of any goods, by UKOP, the undertaker must:
  - (a) bear and pay the cost reasonably incurred by UKOP in making good such damage or restoring the supply; and
  - (b) make reasonable compensation for any other expenses, loss, damages, penalty or costs incurred by UKOP,by reason or in consequence of any such damage or interruption.
- (7) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of UKOP, its officers, servants, contractors or agents.
- (8) UKOP must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker and, if such consent

is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

### **Miscellaneous**

**163.** Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between UKOP and the undertaker, nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and UKOP in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

**164.**—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or UKOP requires the removal of apparatus under paragraph 159(2) or UKOP makes requirements for the protection or alteration of apparatus under paragraph 160, the undertaker must use reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of UKOP's undertaking and UKOP must use reasonable endeavours to co-operate with the undertaker for that purpose including using reasonable endeavours (at the undertaker's cost) to assist the undertaker to procure and/or secure any consent and entering into of any deeds and/or variations by other third parties required in connection with this Part of this Schedule.

(2) For the avoidance of doubt whenever UKOP's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

### **Access**

**165.** If in consequence of the agreement reached in accordance with paragraph 158(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable UKOP to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

**166.** Any difference or dispute arising between the undertaker and UKOP under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and UKOP, be determined by arbitration in accordance with article 49 (arbitration).

### **Notices**

**167.** Notwithstanding article 46 (service of notices), any plans submitted to UKOP by the undertaker pursuant to this Part must be sent to the then Company Secretary of UKOP at its then current registered address or such other address as UKOP may from time to time appoint instead for that purpose and notify to the undertaker in writing.

### **Deviation of authorised development**

**168.** Notwithstanding article 5 of the Order (Power to maintain the authorised development) the undertaker is not permitted to install or deviate vertically the authorised works to a limit less than 2.5 metres below the surface of the ground and no closer than 600mm provided that where directional drilling methods are to be used this minimum distance shall be increased to a 1.5 metre clearance from the apparatus.



## PART 14

### For the protection of PEEL NRE Limited

**169.** The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Peel and, in the case of paragraph 183 of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

**170.** In this Part of this Schedule—

"alternative access road(s)" means the existing access road at Plots 1-01a and 1-01 as identified on the Land Plans and the access road proposed to be constructed by Peel to connect Plot 1-01a to Plot 1-04 as identified on the Land Plans D2.2 Sheet 1 pursuant to planning application Ref: 23/01239/FUL for construction of gas fired electricity generators, enclosures with ancillary equipment, metering station, transformer compound and access from Grinsome Road;

"existing access road" means the existing access road over Plot 1-01 as identified on the Land Plans;

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"CEMP" means Construction Environmental Management Plan;

"CTMP" means Construction Traffic Management Plan;

"LEMP" means Landscaping Environmental Management Plan;

"DEMP" means Decommissioning Environmental Management Plan;

"Network Rail Standard" means Network Rail Standard reference 'NR/L2/CIV/044 'Planning, Design and Construction of Undertrack Crossings';

"Peel" means Peel NRE Limited (company number 04480419), whose registered office is at Venus Building, 1 Old Park Lane, Traffordcity, Manchester, M41 7HA and any associated company of Peel NRE Limited which holds property;

"plans" includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of relevant property;

"relevant property" means:

- (a) any land, works, apparatus and equipment belonging to Peel; and
- (b) any easement or other property interest held or used by Peel or a tenant or licensee of Peel for the purposes of such land, works, apparatus or equipment;

"specified work" means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, relevant property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (power to maintain the authorised development) in respect of such works.

"working days" Monday to Friday inclusive but excluding days which are public holidays

**171.**—(1) Where Peel is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld or delayed but may be given subject to reasonable conditions. If by the end of the period of 30 working days beginning with the date on which consent is requested Peel has not intimated their refusal together with the grounds of any such refusal, Peel will be deemed to have given its consent.

(2) In the event that Peel constructs and makes available for use by the undertaker the alternative access road the undertaker must not:

- (a) commence that part of Work No. 3 to which the existing access road relates;
- (b) use the existing access road; or
- (c) otherwise exercise the powers conferred by the provisions listed in sub-paragraph (1) over the existing access road,

provided that Peel has granted the undertaker a right to pass and repass over the alternative access road with or without vehicles.

**172.**—(1) The undertaker must before commencing construction of any specified work supply to Peel proper and sufficient plans of that work for the reasonable approval of Peel and the specified work must not be commenced except in accordance with such plans as have been approved in writing by Peel or settled by arbitration under article 49 (arbitration).

(2) The approval of Peel under sub-paragraph (1) must not be unreasonably withheld or delayed, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Peel and Peel has not intimated their disapproval together with the grounds of any such disapproval of those plans, Peel will be deemed to have approved the plans as submitted.

**173.**—(1) Any specified work must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 172;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of Peel;
- (c) in such manner as to cause as little damage as is possible to relevant property; and

(2) If any damage to relevant property or any such interference or obstruction is caused by the carrying out of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Peel all reasonable and proper expenses to which Peel may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction provided that the undertaker shall only be liable up to a maximum of £20,000,000.

(3) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Peel or its servants, contractors or agents or any liability on Peel with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

**174.**—(1) The undertaker must pay to Peel all reasonable and proper costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be reasonably incurred by Peel —

- (a) by reason of the construction, maintenance or operation of a specified work or the failure of such a work; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;
- (c) in respect of any damage caused to or additional maintenance required to relevant property;

And the undertaker must indemnify and keep indemnified Peel from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission provided that the undertaker shall only be liable up to a maximum limit of £20,000,000.

(2) Peel must —

- (a) give the undertaker reasonable written notice of any such sums referred to in sub-paragraph (1) as soon as reasonably possible after Peel become aware of the same;
- (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker;
- (c) take all reasonable steps to mitigate any liabilities; and
- (d) keep the undertaker informed and have regard to the undertaker's representations in relation to any such sums referred to in sub-paragraph (1).

**175.**—(1) The undertaker must consult with Peel prior to submitting any CTMP relating to or in the vicinity of relevant property (including any CTMP affecting land adjacent to relevant property) to the relevant planning authority for approval in accordance with Requirement 6. The undertaker will provide a draft CTMP to Peel no later than 25 working days prior to submission and confirm to Peel the intended date of submission at the same time. Peel may make representations on the draft

CTMP to the undertaker no later than 10 working days prior to the notified intended date of submission. The undertaker will only be required to have due regard to any representations timeously made by Peel in accordance with the timescales stipulated in this paragraph in finalising the CTMP for submission and will seek to incorporate any reasonable requests made by Peel where practicable.

(2) The undertaker must consult with Peel prior to submitting any LEMP relating to or in the vicinity of relevant property (including any LEMP affecting land adjacent to relevant property) to the relevant planning authority for approval in accordance with Requirement 11. The undertaker will provide a draft LEMP to Peel no later than 25 working days prior to submission and confirm to Peel the intended date of submission at the same time. Peel may make representations on the draft LEMP to the undertaker no later than 10 working days prior to the notified intended date of submission. The undertaker will have due regard to any representations made by Peel in finalising the LEMP for submission and will seek to incorporate any reasonable requests made by Peel where practicable.

(3) The undertaker must consult with Peel prior to submitting any CEMP relating to or in the vicinity of relevant property (including any CEMP affecting land adjacent to relevant property) to the relevant planning authority for approval in accordance with Requirement 5. The undertaker will provide a draft CEMP to Peel no later than 25 working days prior to submission and confirm to Peel the intended date of submission at the same time. Peel may make representations on the draft CEMP to the undertaker no later than 10 working days prior to the notified intended date of submission. The undertaker will have due regard to any representations made by Peel in finalising the CEMP for submission and will seek to incorporate any reasonable requests made by Peel where practicable.

(4) The undertaker must consult with Peel prior to submitting any DEMP relating to or in the vicinity of relevant property (including any DEMP affecting land adjacent to relevant property) to the relevant planning authority for approval in accordance with Requirement 19. The undertaker will provide a draft DEMP to Peel no later than 25 working days prior to submission and confirm to Peel the intended date of submission at the same time. Peel may make representations on the draft DEMP to the undertaker no later than 10 working days prior to the notified intended date of submission. The undertaker will have due regard to any representations made by Peel in finalising the LEMP for submission and will seek to incorporate any reasonable requests made by Peel where practicable.

**176.** The undertaker will procure that in carrying out Work No. 4 at Plots 1-19, 1-20, 1-22, 1-23 and 1-24, as identified on the Land Plans, the Network Rail Standard (as in force when the works are being carried out) shall be complied with.

## PART 15

### Protection of Encirc Limited

**177.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and Encirc.

**178.** In this Part—

"Ash Road bridge" means the rail bridge crossing Ash Road;

"COMAH Regulations" means the Control of Major Accident Hazards Regulations 2015;

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"CTS Meetings" means construction and traffic scheduling meetings to discuss a schedule in relation to the co-ordination of traffic movements relating to the specified works.

"Encirc" means Encirc Limited (company number NI030990, whose registered office is at 11 Gortahurk Road, Tonymore Derrylin, Enniskillen, Fermanagh, BT92 9DD and any associated company of Encirc Limited which holds property;

“Encirc’s business and operations” means the current operations and business carried out at the Encirc site and also includes any future business and operations of the Encirc site once the future development works have been implemented;

"Fence" means the existing fence erected by Encirc along the boundary between plots 1-02 and 1-06 as identified on the Land Plans;

“fit for purpose” means a road or access route which is of a standard equivalent to or better than the standard of the road or access route included in the Order for the same purpose;

“future development works” means;

- (a) construction of automated warehouse including automated link to glass manufacturing and filling facility, ancillary office space, driver welfare building, security building, HGV parking and marshalling yard and other associated works (LPA Ref: 22/03693/FUL) or any variation to or alternative to that form of development effecting Land Plan Plots 1-02 and 1-06 (Ref Land Plan D2.2 Sheet 1); and
- (b) construction of hydrogen/electricity fired furnace on site of existing dispatch yard and surrounding area effecting Land Plan Plot 1-02 (Ref: Land Plan D2.2 Sheet 1); and
- (c) construction of new rail sidings and intermodal area between existing rail sidings and Network Rail main line effecting Land Plan Plots 1-06, 1-06a 1-20, 1-21 and 1-22 (Ref: Land Plan D2.2 Sheet 1).

“Network Rail Standard” means Network Rail Standard reference ‘NR/L2/CIV/044 ‘Planning, Design and Construction of Undertrack Crossings’;

"Peel" means Peel NRE Limited (company number 004480419), whose registered office is at Venus Building, 1 Old Park Lane, Traffordcity, Manchester, M41 7HA;

“Existing Peel access road” means the existing access road at Plots 1-01a and 1-01 as shown on the Land Plans

“Proposed Peel access road(s)” means the access road(s) proposed to be constructed to connect Plot 1-01a to Plot 1-04 as identified on the Land Plans D2.2 Sheet 1 pursuant to planning application Ref: 23/01239/FUL for construction of gas fired electricity generators, enclosures with ancillary equipment, metering station, transformer compound and access from Grinsome Road;

“Peel access road(s)” means collectively the Existing Peel access road and the Proposed Peel access road(s) and being fit for purpose to allow the undertaker access to Plot 1-01 and between Plots 1-01a and 1-04;

"relevant property" means:

- (a) any land, works, apparatus and equipment belonging to Encirc; and
- (b) any easement or other property interest held or used by Encirc or a tenant or licensee of Encirc for the purposes of such land, works, apparatus or equipment;

"specified work" means so much of any of the authorised development as is situated upon, across, under, over, or may in any way adversely affect, relevant property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (power to maintain the authorised development) in respect of such works.

## **Rights of access**

**179.** Regardless of any provision of this Order or anything shown on the land plans, the undertaker-

- (a) Must not extinguish any rights of access to the relevant property granted to Encirc otherwise than by agreement (both parties acting reasonably);
- (b) must provide a minimum of two working days notification prior to each entry to the relevant property, such notice to be submitted in writing to facilities.elton@encirc360.com, and a single notification may cover multiple dates of entry;
- (c) provide any such details relating to the required access as is reasonably required by Encirc;

- (d) comply with any reasonable conditions which Encirc may specify in relation to the undertaker's entry to the relevant property but only to the extent they do not restrict or impede the ability of the undertaker to construct, operate or maintain the authorised development;
- (e) must keep any existing roads used for access to the relevant property by Encirc clean but only to the extent they have been dirtied as a result of the specified works, clear from obstruction and in a usable condition as far as reasonably practicable; and
- (f) must pay a fair and reasonable proportion (according to use) of the costs incurred by Encirc in repairing and maintaining the entirety of Ash Road.

**180.** The parties shall hold the CTS Meetings fortnightly during detailed design and construction of the specified works. The undertaker and Encirc shall use all reasonable but commercially prudent endeavours to agree a schedule in relation to the co-ordination of traffic movements relating to the specified works. Where a schedule is agreed the parties will use the access routes only in accordance with the agreed schedule.

### **Rights of access – Grinsome Road to the Protos Site**

**181.** Subject to paragraph 183 (Rights of access – Ash Road (South)), provided that (a) Peel has constructed the Peel access road(s) prior to the undertaker completing that part of Work No. 3 which relates to Land Plans Plots 1-01a, 1-01, 1-02, 1-03 and 1-04, (b) Peel has granted the undertaker an easement for all rights of access required by the undertaker over the Peel access road(s) and Land Plans Plot 1-04 to ensure the undertaker has suitable access (to the undertaker's satisfaction) to Plots 1-05, 1-08, 1-09, 1-10, 1-11, 1-12, 1-13, 1-14, 1-15, 1-16, 1-17 and 1-18, and (c) the undertaker is satisfied that the Peel access road(s) are/ is fit for purpose for the purposes of Work No.1, No.2, No. 3 and No.4:

- (a) The undertaker must not exercise the Powers conferred by this Order to (a) appropriate or acquire or take temporary possession of Land Plans Plots 1-02 and 1-03, or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right held by Encirc over Land Plans Plots 1-01a and 1-01

**182.** The undertaker shall use all reasonable but commercially prudent endeavours to secure the grant by Peel of an easement for all rights of access required by the undertaker over the Peel access road(s) and Plot Plans Plot 1-04 to ensure the undertaker has suitable access (to the undertaker's satisfaction) to Plots 1-05, 1-08, 1-09, 1-10, 1-11, 1-12, 1-13, 1-14, 1-15, 1-16, 1-17 and 1-18.

### **Rights of access – Ash Road (South)**

**183.** Subject to Paragraph 184 (Rights of Access – Abnormal Loads), the undertaker must use the entrance from Ash Road as the primary access route (over Plots 1-06, 1-06a, 1-06b and 1-06c as identified on the Land Plans) for construction activities within Plots 1-20, 1-21 and 1-22. Provided that Encirc has granted to the undertaker a suitable right of access across a fit for purpose access route (to the undertaker's satisfaction) to all of Plot 1-22 as identified on the Land Plans as required by the undertaker:

- (a) The undertaker may in relation to Plot 1-21 exercise its powers under article 35 (temporary use of land for carrying out the authorised development) for the purpose of temporary use as a construction working area and for access only; and
- (b) The undertaker may not exercise the powers conferred under article 27 (compulsory acquisition of rights and restrictive covenants) in relation to Land Plans Plot 1-21 without the prior consent in writing of Encirc.

### **Rights of Access – Abnormal Loads**

**184.** In respect of abnormal loads, the undertaker may use the access route over Grinsome Road, being either (a) over Plots 1-01a, 1-01, 1-02, 1-03, 1-06, and 1-06d as identified in the Lands Plans, (b) over a route to be determined from Plots 1-01a, 1-01, part of 1-02, and from a point of egress (to

be determined) in Plot 1-02 to the north end of Plot 1-06 subject to Encirc granting to the undertaker a suitable right of access across such route which must be a fit for purpose route (to the undertaker's satisfaction), or (c) over a route to be determined from that part of the Peel access road(s) constructed pursuant to planning permission reference 22/0363/FUL over Plots 1-03 and 1-02, and from an egress in Plot 1-02 (to be determined) to the north end of Plot 1-06 subject to Encirc granting to the undertaker a suitable right of access across such route which must be a fit for purpose route (to the undertaker's satisfaction) Use of any of the above routes is subject to the following conditions:

- (a) The undertaker must provide a minimum of two working days notification prior to use of the construction access, writing to be provided to facilities.elton@encirc360.com;
- (b) The undertaker must not take access through the Fence unless and until Encirc have confirmed the written approval of HMRC and shall not take any steps which would lead to Encirc being in breach of any obligations to HMRC;
- (c) The undertaker shall comply with all reasonable conditions imposed by Encirc when taking access through the Fence and shall notify Encirc immediately if there is a breach of any such condition;
- (d) The undertaker will use all reasonable endeavours to take access through the Fence in such a manner as to cause as little damage as reasonably practicable and shall inform Encirc immediately if any damage is caused to the Fence including providing full details of the location and the damage caused.
- (e) The undertaker must pay to Encirc all reasonable and proper costs incurred by Encirc in providing reasonably necessary security detail to escort abnormal loads through the Fence;
- (f) The undertaker must make good any damage to the Fence as soon as reasonably practicable and must pay to Encirc all documented reasonable and proper expenses to which Encirc may be put and any compensation for any direct loss which it may sustain by reason of such damage provided that at all times Encirc will be under an obligation to take reasonable steps to mitigate its loss.

## **Railway**

**185.**—(1) The undertaker will procure that in carrying out Work No. 4 at Plots 1-19, 1-20, 1-22, 1-23 and 1-24, as identified on the Land Plans:

- (a) The Network Rail Standard (as in force when the works are being carried out) shall be complied with;
- (b) All crossings under the existing railway lines (or any future development works installed by Encirc at the relevant property prior to the commencement of Work No. 4) will use trenchless crossing methods;
- (c) COMAH Regulations shall be complied with.

(2) The undertaker must—

- (a) at all times before, during and after the construction of the specified works allow an engineer or other person appointed by Encirc to watch and inspect the execution of the specified work; and
- (b) supply the appointed person with all such information and all relevant and available documents as they may reasonably require with regard to the method of constructing a specified work.

(3) Encirc shall provide details of their scheduled trains at the relevant property to the undertaker on a monthly basis at CTS Meetings, and the undertaker and Encirc shall use all reasonable but commercially prudent endeavours to agree at the CTS Meetings provision to enable the authorised development and the operation of the scheduled trains. Where Encirc advise the undertaker of any changes to the schedule as soon as reasonably practicable, the undertaker shall use all reasonable endeavours to minimise interference of the carrying out of the specified works with the operation of Encirc's re-scheduled trains.

## **Construction Traffic Management Plan**

**186.**The undertaker must consult with Encirc prior to submitting any CTMP to the relevant planning authority for approval in accordance with Requirement 6. The undertaker will provide a draft CTMP to Encirc no later than 20 working days prior to submission, and confirm to Encirc the intended date of submission at the same time. Encirc may make representations on the draft CTMP to the undertaker no later than 14 days prior to the notified intended date of submission. The undertaker will have due regard to any reasonable representations timeously made by Encirc in finalising the CTMP for submission.

## **Co-operation**

**187.**Where Encirc propose to carry out any piling or construction works on the Order land within Land Plan Plots 1-20 and 1-22, prior to carrying out such works Encirc must agree with the undertaker the design and methodology which will be used, and the operational use of such works.

**188.**The undertaker and Encirc must use all reasonable but commercially prudent endeavours to reach agreement to enable the authorised development, Encirc's business and operations and any future development works to be carried out (subject to Encirc obtaining all necessary consents, permissions and authorisations).

**189.**The undertaker shall ensure that the pipeline is buried to a minimum depth of 4.3m under the existing railway ground level.

## **Specified work**

**190.** The undertaker must give Encirc no less than 56 days written notice of the intended commencement of any specified works and must include with this notification a plan and description of the works to be commenced and a programme for these works.

**191.**Any specified work must, when commenced, be constructed-

- (a) In such a manner as to cause as little damage and disruption as reasonably practicable to the relevant property, including damage by way of pollution or to the operation of Encirc's business and operations;
- (b) In such a manner so as not to cause any breaches of Encirc's obligations to HMRC or under the COMAH Regulations; and
- (c) If any damage to the relevant property or Encirc's business and operations or any such interference or obstruction is caused by the carrying out of the construction of a specified work, the undertaker must promptly inform Encirc of such damage, must make good such damage and must pay to Encirc all reasonable and proper expenses to which Encirc may be put and any compensation for any loss which it may sustain by reason of such damage, interference or obstruction, provided that at all times Encirc will be under an obligation to take reasonable steps to mitigate its loss.

## **Expenses**

**192.**—(1) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Encirc or its servants, contractors or agents or any liability on Encirc with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

(2) The undertaker must pay to Encirc all reasonable and proper costs, charges, penalties, damages and expenses not otherwise provided for in this Part of this Schedule which may be reasonably incurred by Encirc, provided that at all times Encirc will be under an obligation to take reasonable steps to mitigate its loss -

- (a) by reason of the construction, maintenance or operation of a specified work or the failure of such a work; or

- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;
- (c) in respect of any damage caused to or additional maintenance required to relevant property
- (d) in respect of any damage to any access routes to the relevant property for which Encirc have a maintenance obligation but always limited to the extent such damage is attributable to the undertaker and the undertaker has not reimbursed the costs of remediation of such damage under sub-paragraph (e);
- (e) in respect of any claim against Encirc by any third party in respect of the access routes to the extent such claim relates to damage to the access routes but always limited to the extent such damage is attributable to the undertaker and the undertaker has not reimbursed the costs of remediation of such damage under sub-paragraph (d);
- (f) by the provision of reasonably necessary security detail for any land, works, apparatus and equipment belonging to Encirc to the extent attributable to the specified works;
- (g) in respect of securing any required consents from HMRC in respect of the undertaking authorised development by the undertaker.

(3) The undertaker must indemnify and keep indemnified Encirc from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission to a maximum cap on liability of £5 million for each individual claim and an aggregate cap of £15 million provided that there shall be no cap on liability in respect of any damage caused to the Ash Road bridge which prevents access to the relevant property, provided that at all times Encirc will be under an obligation to take reasonable steps to mitigate its loss Encirc must-

- (a) give the undertaker reasonable written notice of any such sums referred to in paragraph 192 (3) as soon as reasonably possible after Encirc become aware of the same;
- (b) not make any offers to settle claims or demands without the prior consent of the undertaker;
- (c) take all reasonable steps to mitigate any liabilities;
- (d) where any claims or demands are made by Network Rail, advise Network Rail that any claims and demands should be directed to the undertaker only; and
- (e) keep the undertaker informed and have regard to the undertaker's representations in relation to any such sums referred to in this paragraph.

## **General**

**193.** (1) Any difference or dispute arising between the undertaker and Encirc under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Encirc, be determined by arbitration in accordance with article 49 (arbitration) of this Order.

(2) The undertaker and Encirc must each act reasonably in connection with the implementation of this Part of this Schedule.

## **Notices**

**194.** Any plans or notices submitted to Encirc by the undertaker pursuant to this Part must be sent to Encirc at legal@encirc360.com or such other address as Encirc may from time to time appoint instead for that purpose and notify to the undertaker in writing.



## PART 16

### For the protection of Welsh Ministers as Strategic Highway Authority

#### Application

**195.** The provisions of this Part have effect for the protection of the Welsh Ministers (“the WM”) as the Highway Authority for the strategic road network in Wales, in addition to all other applicable statutory protections, unless otherwise agreed in writing between the undertaker and the WM.

#### Interpretation

**196.** In this Part—

“highway structure” means any bridge, subway, culvert, pipe, tunnel, manhole, chamber, wall, reinforced soil embankment, piece of street furniture, building or other structure built in, over, under or adjacent to any part of the highway which materially affects the support of that highway and/or the safety of the travelling public;

“strategic highway” means any part of the highway network including trunk roads or special roads which the WM are responsible for;

“NMWTRA” means the North and Mid Wales Trunk Road Agency, who act as the highway agents of the WM and exercise functions relating to the management and operation of the relevant part of the strategic highway on behalf of the WM pursuant to an agreement between the WM and Gwynedd Council under section 6 of the Highways Act 1980. In practice therefore, the procedural matters contained in this Part will be largely dealt with by NMWTRA on behalf of the WM; and

“works” means—

- (a) that part of Work No. 39 which requires the trenchless installation of the pipeline under the A494 (Aston Expressway) highway;
- (b) that part of Work No. 44 which requires the open cut installation of the pipeline under the verge of the A55 adjacent to Junction 33a, heading north under Chester Road; or
- (c) any other work forming part of the authorised development within or which affects or requires occupation of the strategic highway.

#### Approvals

**197.** The crossing of the A494 and its associated assets must only be carried out by trenchless techniques. The installation of the pipeline under the verge of the A55 adjacent to Junction 33a, heading north under Chester Road shall be carried out as open cut installation.

**198.**—(1) Prior to the commencement of the works the undertaker must obtain the written approval of the WM to such works.

(2) When requesting approval under sub-paragraph (1), the undertaker must submit to the WM:

- (a) Copy of location plan to a scale not less than 1/10,000 showing the location and/or proposed route and siting of the works;
- (b) Details of the methodology of the works;
- (c) Details of the proposed timing of the works;
- (d) Details of any traffic management measures (including signage) proposed in connection with the works; and
- (e) Where approval is sought for works to or within the carriageway of a strategic highway, evidence of NHSS (National Highways Sector Scheme) certification and Street Works Qualifications.

**199.** No crossing is to take place until a monitoring regime and the Geotechnical Design Report (GDR as defined by the DMRB CD622 Managing Geotechnical Risk) is agreed and certified by the WM.

**200.** Technical Approval from WM in accordance with DMRB CG300 is required in advance of any part of the works which is likely to affect any existing highway structure(s).

**201.** Approval under this Part may be sought in one or more applications.

**202.** Any approval of the WM under this Part may be given subject to such reasonable requirements or conditions as the WM may determine.

**203.** The undertaker must contact any owners or operators of apparatus in, on, over, under or near the strategic highway including other statutory undertakers to ascertain whether their existing or proposed apparatus to within or under the strategic highway is likely to be affected by the works. The undertaker must comply with the reasonable requirements and conditions imposed by the owners or operators relating to the protection of existing apparatus in, on, over, under or near the strategic highway likely to be affected by the works.

**204.** The undertaker must pay a fee of £250 to the WM with any application for approval under this Part.

### **Indemnity**

**205.** The undertaker indemnifies the WM against any and all claims in respect of injury, damage or loss arising out of—

- (a) the placing or presence in the strategic highway of apparatus as part of the works; or
- (b) the excavation by any person of any works within the strategic highway,

always provided that the undertaker shall not be liable for any consequential loss or any indirect loss under any circumstances.

**206.** The undertaker (or any person carrying out works on its behalf) must have and maintain in force for the duration of any works to or within the strategic highway network, public liability/third party insurance to the sum of £10 million covering its liability under paragraph 205. The undertaker must provide evidence of such insurance to the WM if requested.

### **Traffic management**

**207.** The undertaker must contact the NMWTRA, the WM RA Control Room, North Wales Traffic Management Centre, Ffordd Sam Parri, Morfa, Conwy, LL32 8HH – Telephone number 01492 564790 before erecting or removal of traffic management measures on the strategic highway on each occasion that erection or removal is required.

**208.** The undertaker must execute the works in strict accordance with the requirements contained in Chapter 8 of the Traffic Signs Manual (2009) as published by Her Majesty's Stationery Office HMSO and any amendments thereof.

### **Inspections**

**209.** The WM or any person authorised by them for this purpose is entitled to inspect any works to, within or under the strategic highway while such works are being carried out and following completion of such works.

**210.** Exercise of the right to inspect under paragraph 209 must be carried out reasonably, in compliance with any requirements of any health and safety requirements in place within the site of any works, and in accordance with the instructions of the undertaker.

**211.**—(1) The undertaker must compensate the WM in respect of any loss, damage, charge, cost or expense reasonably suffered or incurred by the WM as a result of the execution, use or maintenance of the works.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect of—

- (a) any damage or interruption to the extent that it is attributable to the act, neglect or default of WM, its officers, employees, contractors or agents; and / or
- (b) any indirect or consequential loss of WM or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption).

### **Reinstatement**

**212.** Any reinstatement of the strategic highway required in connection with or as a consequence of the works must be carried out in strict conformity with the Code of Practice “Specification for the Reinstatement of Openings in Highways”.

**213.**—(1) Where, in the reasonable opinion of the WM, any reinstatement carried out by the undertaker is defective, three defect inspections will be carried out comprising:

- (a) A joint inspection by the WM and the undertaker to determine the nature of the failure and what remedial works need to be carried out;
- (b) Inspection by or on behalf of the WM of remedial works in progress; and
- (c) Inspection by or on behalf of the WM when remedial works have been completed.

(2) The undertaker must pay an inspection fee of £47.50 for each inspection carried out under this paragraph.

**214.** Any and all reasonable costs associated with the reinstatement work will be met by the undertaker.

### **Notice of completion of Works**

**215.** The undertaker must notify the WM of the completion of works approved by the WM under this Part within 10 working days of such completion.

**216.** The undertaker must supply the WM with as built records of any apparatus sited within or under the strategic highway within 20 working days of the completion of works, including, in particular, the location and depth of any electrical cables on a plan to a scale of 1/500 with a longitudinal and vertical accuracy of + or - 100mm.

**217.** The undertaker must submit a Geotechnical Feedback Report (GFR as defined in the DMRB CD622 Managing Geotechnical Risk) including all monitoring results and as built drawings to the WM no later than six months from the date of completion.

**218.** After the apparatus has been placed, the undertaker must not carry out any further works or maintenance to the apparatus or works or any other works involving excavation within the boundaries of the strategic highway without the prior written approval of the WM, such approval not to be unreasonably withheld or delayed, and any such works must be carried out and completed to the reasonable satisfaction of WM.

### **Arbitration**

**219.** Any difference or dispute arising between the undertaker and the WM under this Part must, unless otherwise agreed in writing between the undertaker and the WM, be determined by arbitration in accordance with article 49 (arbitration).

## Notices

220. The plans submitted to the WM by the undertaker pursuant to this Part must be submitted to North & Mid Wales Trunk Road Agent, Unit 5 Llys Britannia, Parc Menai, Bangor, Gwynedd, LL57 4BN and [streetworks@nmwtra.org.uk](mailto:streetworks@nmwtra.org.uk) or such other address as the WM may from time to time appoint instead for that purpose and notify to the undertaker in writing.

## Maintenance

221. The undertaker must maintain the apparatus in an appropriate state of repair and condition. The undertaker must if required place and maintain within the limits of the said highway suitable permanent signs of a type and in positions to be approved by the WM for the purpose of indicating as nearly as possible the exact position under the highway in which the said apparatus is laid.

# PART 17

## For the protection of National Highways Limited

### Application etc.,

222. The provisions of this Part of this Schedule apply for the protection of National Highways and have effect unless otherwise agreed in writing between the undertaker and National Highways.

### Interpretation

223.—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with subparagraph (2) the latter prevail.

(2) In this Part of this Schedule—

“acceptable security” means either:

- (a) a parent company guarantee from a parent company in favour of National Highways to cover the undertaker’s liability to National Highways to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Highways and where required by National Highways, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or
- (b) a bank bond or letter of credit from an acceptable credit provider in favour of National Highways to cover the undertaker’s liability to National Highways for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Highways);

“as built information” means one electronic copy of the following information—

- (a) as constructed drawings in both PDF and AutoCAD DWG formats showing the location and depth of the pipeline as installed and any ancillary or protective measures installed within the strategic road network;
- (b) as constructed information for any utilities discovered or moved during the specified works;
- (c) method statements for the specified works carried out;
- (d) in so far as it is relevant to the specified works, the health and safety file; and
- (e) such other information as is reasonably required by National Highways to be used to update all relevant databases and to ensure compliance with National Highway’s Asset Data Management Manual as is in operation at the relevant time.

“condition survey” means a survey of the condition of National Highways structures and assets within the Order limits that may be affected by the specified works;

“contractor” means any contractor or subcontractor appointed by the undertaker to carry out the specified works;

“detailed design information” means such of the following drawings specifications and calculations as are relevant to the specified works—

- (a) site clearance details;
- (b) boundary, environmental and mitigation fencing;
- (c) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;
- (d) utilities diversions; and
- (e) other such information that may be reasonably required by National Highways to be used to inform the detailed design of the specified works;

“DMRB” means the Design Manual for Roads and Bridges or any replacement or modification of it;

“the health and safety file” means the file or other permanent record containing the relevant health and safety information for the specified works required by the Construction Design and Management Regulations 2015 (or such updated or revised regulations as may come into force from time to time);

“nominated persons” means the undertaker’s representatives or the contractor’s representatives on site during the carrying out of the specified works as notified to National Highways from time to time;

“parent company” means a parent company of the undertaker acceptable to National Highways acting reasonably;

“programme of works” means a document setting out the sequence and timetabling of the specified works;

“specified works” means so much of the authorised development, including any maintenance of that work, as is on, in, under or over the strategic road network for which National Highways is the highway authority, and specifically including Work No.12 in so far as that crosses the M56 motorway, Work No.16 in so far as that crosses the M53 motorway, and Work No. 22 in so far as that crosses the A41 highway.

“strategic road network” means any part of the road network including trunk roads, special roads or streets for which National Highways is the highway authority including drainage infrastructure, street furniture, verges and vegetation and all other land, apparatus and rights located in, on, over or under the highway;

“utilities” means any pipes wires cables or equipment belonging to any person or body having power or consent to undertake street works under the New Roads and Street Works Act 1991; and

(3) References to any standards, manuals, contracts, Regulations and Directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

## **General**

**224.** The undertaker acknowledges that parts of the works authorised by this Order affect or may affect parts of the strategic road network in respect of which National Highways may have appointed or may appoint a highway operations and maintenance contractor.

**225.** Notwithstanding the limits of deviation permitted pursuant to article 6 (limits of deviation) of this Order, no works in carrying out, maintaining or diverting the authorised development may be carried out under the strategic road carriageway at a distance less than 4 metres below the lowest point of the carriageway surface.

**226.** References to any standards, manuals, contracts, regulations and directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

### **Prior approvals and security**

**227.**—(1) Any specified works which involve tunnelling, boring or otherwise installing the pipeline under the strategic road network without trenching from the surface, must be designed by the undertaker in accordance with DMRB CD622 unless otherwise agreed in writing by National Highways.

(2) The specified works must not commence until—

- (a) the programme of works has been approved by National Highways;
- (b) the detailed design of the specified works comprising of the following details, insofar as considered relevant by National Highways, has been submitted to and approved by National Highways—
  - (i) the detailed design information;
  - (ii) the identity and suitability of the contractor and nominated persons; and
  - (iii) a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker;
- (c) a condition survey and regime of monitoring of any National Highways assets or structures that National Highways reasonably considers will be affected by the specified works, has been agreed in writing by National Highways; and
- (d) an acceptable security in favour of National Highways for the indemnity set out in paragraph 232 below has been put in place, which security must be maintained in place until the expiry of 12 months following the completion of all of the specified works.

(3) National Highways must, prior to the commencement of the specified works, inform the undertaker of the identity of the person who will act as a point of contact on behalf of National Highways for consideration of the information required under sub-paragraph (2).

(4) Any approval of National Highways required under this paragraph-

- (a) must not be unreasonably withheld;
- (b) must be given in writing;
- (c) shall be deemed to have been given if neither given nor refused within 2 months of the receipt of the information for approval or, where further particulars are requested by National Highways (acting reasonably) within 2 months of receipt of the information to which the request for further particulars relates; and
- (d) may be subject to any reasonable conditions as National Highways considers necessary.

(5) Any change to the identity of the contractor and/or designer of the specified works will be notified to National Highways immediately and details of their suitability to deliver the specified works will be provided on request.

(6) Any change to the detailed design of the specified works must be approved by National Highways in accordance with paragraph 227(2) of this Part.

### **Construction of the specified works**

**228.**—(1) The undertaker must give National Highways 28 days' notice in writing of the date on which the specified works will start.

(2) The specified works must be carried out by the undertaker to the reasonable satisfaction of National Highways in accordance with—

- (a) the relevant detailed design information and programme of works approved pursuant to paragraph 227(2) above or as subsequently varied by agreement between the undertaker and National Highways;
- (b) in so far as it may be applicable, the DMRB, save to the extent that exceptions from those standards apply which have been approved by National Highways; and
- (c) all aspects of the Construction (Design and Management) Regulations 2015 or any statutory amendment or variation of the same.

(3) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by National Highways (whose identity must have been previously notified to the undertaker by National Highways) to gain access to the specified works for the purposes of inspection and supervision of the specified works.

(4) If any part of the specified works is constructed-

- (a) other than in accordance with the requirements of this Part of this Schedule; or
- (b) in a way that causes damage to the highway, highway structure or asset or any other land of National Highways,

National Highways may by notice in writing require the undertaker, at the undertaker's own expense, to comply promptly with the requirements of this Part of this Schedule or remedy any damage notified to the undertaker under this Part of this Schedule, to the satisfaction of National Highways, acting reasonably.

(5) If during the carrying out of the authorised development the undertaker or its appointed contractors or agents causes damage to the strategic road network then National Highways may by notice in writing require the undertaker, at its own expense, to remedy the damage.

(6) If within 28 days on which a notice under sub-paragraph (4) or sub-paragraph (5) is served on the undertaker (or in the event of there being, in the opinion of National Highways, a danger to road users, within such lesser period as National Highways may stipulate), the undertaker has failed to take the steps required by that notice, National Highways may carry out the steps required of the undertaker and may recover any expenditure reasonably incurred by National Highways in so doing.

(7) Nothing in this Part of this Schedule prevents National Highways from carrying out any work or taking any such action as it reasonably believes to be necessary as a result of or in connection with the carrying out or maintenance of the authorised development without prior notice to the undertaker in the event of an emergency or to prevent the occurrence of danger to the public and National Highways may recover any expenditure it reasonably incurs in so doing.

(8) In constructing the specified works, the undertaker must at its own expense divert or protect all utilities.

(9) The undertaker must notify National Highways if it fails to complete the specified works in accordance with the agreed programme of works pursuant to paragraph 227(2)(b) of this Part, or suspends the carrying out of any specified work beyond 14 days, and National Highways reserves the right to withdraw any road space booking granted to the undertaker to ensure compliance with its network occupancy requirements.

## **Payments**

**229.**—(1) The undertaker must pay to National Highways a sum equal to the whole of any reasonable costs and expenses which National Highways incurs (including costs and expenses for using internal or external staff and costs relating to any work which becomes abortive) in relation to the specified works and in relation to any approvals sought under this Order, or otherwise incurred under this Part, including—

- (a) the checking and approval of the information required under paragraph 227(2);
- (b) the supervision of the specified works;
- (c) any costs reasonably incurred under paragraph 228(7) of this Part, and
- (d) any value added tax which is payable by National Highways in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs,

together comprising “the NH costs”.

(2) National Highways must provide the undertaker with a schedule showing its reasonable estimate of the NH costs prior to the commencement of the specified works and the undertaker must pay to National Highways the reasonable estimate of the NH costs prior to commencing the specified works and in any event prior to National Highways incurring any cost.

(3) If at any time after the payment referred to in sub-paragraph (2) has become payable, National Highways reasonably believes that the NH costs will exceed the reasonably estimated NH costs it may give notice to the undertaker of the amount that it reasonably believes the NH costs will exceed the estimate of the NH costs (the excess) and the undertaker must pay to National Highways within 28 days of the date of the notice a sum equal to the excess.

(4) National Highways must give the undertaker a final account of the NH costs referred to in sub-paragraph (1) above within 91 days of the date of completion of the specified works as set out in the programme of works.

(5) Within 28 days of the issue of the final account:

- (a) if the final account shows a further sum as due to National Highways the undertaker must pay to National Highways the sum shown due to it; or
- (b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by National Highways, National Highways must refund the difference to the undertaker.

(6) If any payment due under sub-paragraph (2) above, is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 3% above the Bank of England base lending rate from time to time being in force for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

### **Condition survey and as built details**

**230.**—(1) The undertaker must, as soon as reasonably practicable after completing the specified work, arrange for any highways structures and assets that were the subject of the condition survey under paragraph 227(2)(c) to be re-surveyed and must submit the re-survey to National Highways for its approval. The re-survey will include a renewed geotechnical assessment required by DMRB CD622 if the specified works include any works beneath the strategic road network.

(2) If the re-surveys carried out pursuant to sub-paragraph 230(1) indicates that any damage has been caused to a structure or asset, the undertaker must submit a scheme for remedial works in writing to National Highways. National Highways must remedy any damage identified in the re-surveys and National Highways may recover any expenditure it reasonably incurs in so doing from the undertaker

(3) The undertaker must make available to National Highways upon request copies of any survey or inspection reports produced pursuant to any inspection or survey of any specified work following its completion that the undertaker may from time to time carry out.

(4) Within 30 days of completion of the specified works, the as built details must be provided by the undertaker to National Highways.

### **Insurance**

**231.** Prior to the commencement of the specified works the undertaker must effect and maintain in place until the completion of all of the specified works, public liability insurance with an insurer in the minimum sum of £10,000,000.00 (ten million pounds) in respect of any one claim against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of specified works or use of the strategic road network by the undertaker.



## **Indemnity**

**232.** The undertaker fully indemnifies National Highways from and against all reasonable costs, claims, expenses, damages, losses and liabilities suffered by National Highways directly arising from the construction, maintenance or use of the specified works or exercise of or failure to exercise any power under this Order within 30 days of demand save for any loss arising out of or in consequence of any negligent act or default of National Highways and always excluding any indirect or consequential loss suffered by National Highways.

## **Maintenance of the specified works**

**233.—(1)** The undertaker must, prior to the commencement of any works of external maintenance to the specified works, give National Highways 28 days' notice in writing of the date on which those works will start unless otherwise agreed by National Highways, acting reasonably. Works of inspection or maintenance undertaken from within the pipeline will not be subject to this paragraph.

(2) If, for the purposes of maintaining the specified works, the undertaker needs to occupy any road space, the undertaker must comply with National Highways' road space booking requirements and no maintenance of the specified works for which a road space booking is required shall commence without a road space booking having first been secured.

(3) The undertaker must comply with any reasonable requirements that National Highways may notify to the undertaker, such requirements to be notified to the undertaker not less than 14 days' in advance of the planned commencement date of the maintenance works.

## **Land**

**234.—(1)** The undertaker must not, in reliance on or in exercise of any power under this Order, interfere with, remove, damage or prevent or impair the functioning of, and must on reasonable request (or in case of emergency, on demand) allow access by National Highways to, the highway drainage assets located in plots 2-14, 4-20, 5-01, 5-02, 5-03, 5-04, 5-10, 5-12, 5-14, 5-15, 5-20, 5-22, 5-23, 6-02, 6-03, 6-04, 6-05, 6-06,

(2) The undertaker must not, in reliance on or in exercise of any power under this Order, interfere with, remove or prevent access by National Highways in pursuance of any right held over plots 2-03, 2-14 and 5-05.

(3) The undertake must not, in reliance on or in exercise of any power under this Order, acquire, extinguish or remove any right National Highways holds for the purposes of its undertaking in any of the plots listed in sub-paragraphs (1) and (2) and plot 9-04.

## **Expert Determination**

**235.—(1)** Article 49 (arbitration) of the Order does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule may be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) On notification by either party of a dispute, the parties must jointly instruct an expert within 14 days of notification of the dispute.

(4) All parties involved in settling any difference must use all reasonable but commercially prudent endeavours to do so within 21 days from the date that an expert is appointed.

(5) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 7 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;

- (c) issue a decision within 7 days of receipt of the submissions under sub-paragraph (b); and
- (d) give reasons for the decision.

(6) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 49 (arbitration).

(7) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

## PART 18

### For the protection of local highway authorities

**236.** The provisions of this Part of this Schedule have effect unless otherwise agreed in writing between the undertaker and the relevant local highway authority.

**237.** In this Part of this Schedule—

“Consents” means approvals, consents, licences, permissions, or registrations;

“RSA” or “Road Safety Audit” means a review of the proposed design or any works and any road safety impacts carried out in accordance with the Design Manual for Roads and Bridges or such other standard as the undertaker and the relevant local highway authority may agree;

“highway” means a highway vested in or maintainable by the relevant local highway authority as highway authority under the 1980 Act and this definition shall include any bridge or structure carrying a highway;

“relevant local highway authority” means in relation to highways within Cheshire West and Chester, Cheshire West and Chester Council, and in relation to highways in Flintshire, Flintshire County Council

“specified work” means the works under the Order to create new, permanent junctions to the public highway and the installation of the pipeline in or under the highway where that requires breaking open of the surface of the highway.

### **Highway condition and highway assets surveys**

**238.—**(1) The undertaker will notify the of relevant local highway authority -

- (a) of the anticipated date of commencement of any Works to be undertaken under this Order; and
- (b) of the anticipated construction programme and date of completion of the authorised development;

not less than 3 months prior to that anticipated date of commencement of any Works to be undertaken under this Order.

(2) The undertaker and relevant local highway authority may agree that the relevant local highway authority will procure the highway condition surveys required under this Part of this Schedule at the cost of the undertaker.

(3) The undertaker will agree a proposed scope with the relevant local highway authority setting out the number (having regard to the construction programme), content and format of the highway condition surveys no later than 4 weeks after notification under sub- paragraph (1). If the undertaker fails to provide a highway condition survey or does not provide the relevant local highway authority with sufficient time to undertake a highway condition survey prior to any Works being undertaken pursuant to the Order then in default the last highway condition survey undertaken by the relevant local highway authority will amount to the baseline condition of the relevant highway and/or highway asset.

(4) A final highway condition survey must be procured by the undertaker within 28 days of the relevant local highway authority being notified by the undertaker that the construction of the authorised development is complete.

(5) Copies of any highway condition survey carried out in accordance with this paragraph must be provided to the relevant local highway authority by the undertaker within 10 working days of the completion of the relevant survey.

### **HGV route remediation**

**239.**—(1) The undertaker must maintain and provide to the relevant local highway authority at 3 month intervals from the date of any Works being undertaken under this Order until the authorised development is complete, records of the number of HGVs using the highway identified in paragraph 238(2) and/ or any amendments thereto to access the authorised development and details of which route such HGVs used.

(2) The relevant local highway authority will, having regard to the highway condition surveys, identify any need for remediation of the highway on the highway identified in paragraph 238(3) and/or any amendments made thereto.

(3) Where a need for remediation works or measures is identified under sub-paragraph (1), the relevant local highway authority must prepare a schedule of the works or measures required and of the cost of the delivery of those works or measures identified. For the avoidance of doubt, the reasonable cost of reviewing the highway condition surveys and preparing the schedule of works will be met by the undertaker.

(4) Upon receipt of the schedule of works identified in paragraph (2) and/or any amendments made thereto, the undertaker will apply for a licence from the relevant local highway authority to undertake the remediation works to the highway and must undertake these works within 3 months of that licence being granted. The cost of the licence and relevant approvals will be paid by the undertaker to the relevant local highway authority.

### **Specified work**

**240.**—(1) The undertaker will allow and facilitate an appropriately qualified officer of the relevant local highway authority to participate in the design process for any Work authorised by this Order which involves a specified work and/or any other Work to the local highway network required pursuant to this Order, and will have reasonable regard to any views of that officer in finalising the detailed design of that Work, provided always that any such view shared by the officer will not be an instruction, requirement or authorisation under this Order.

(2) Any officer of the relevant local highway authority duly appointed for the purpose may at all reasonable times, on giving to the undertaker such notice as may in the circumstances be reasonable, enter upon and inspect any part of the authorised development which—

- (a) is in, on, over or under any highway; or
- (b) which may affect any highway;

during the carrying out of the Work, and the undertaker will give to such officer all reasonable facilities for such inspection (subject to any reasonable adjustments necessary for the safety of such officer) and, if the officer is of the opinion that the construction of the Work poses danger to any highway or to any property of the relevant local highway authority or danger to persons or vehicles or other property in relation to which the relevant local highway authority might be liable on, in, over or under any highway, the undertaker will adopt such measures and precautions as may be reasonably practicable for the purpose of preventing any damage or injury to the highway or persons or vehicles or other property aforesaid.

(3) Any officer of the relevant local highway authority exercising the right to inspect works under sub-paragraph (1) must comply with all reasonable health and safety requirements and instructions of the undertaker in doing so.

(4) The undertaker must, if reasonably required by the relevant local highway authority, provide and maintain during such time as the undertaker may occupy any part of a highway for the purpose

of the construction of any part of the authorised development, temporary ramps for vehicular or pedestrian traffic and any other traffic measures required to protect the safety of road users in accordance with chapter 8 of the Traffic Signs Manual and the Safety at Street Works and Road Works A Code of Practice as may be necessary.

**241.**(1) Where, under this Order, any street works require to be undertaken to the reasonable satisfaction of the local highway authority, this paragraph will apply.

(2) The relevant local highway authority will, as soon as reasonably practicable following the receipt of notice from the undertaker that it considers any street works to which this paragraph applies to be complete, carry out an inspection of such street works.

(3) The relevant local highway authority will confirm when any street works have been completed to their reasonable satisfaction in writing and will set out in such confirmation the date on which the works were last inspected to establish such reasonable satisfaction. For the period of 24 months from the date of last inspection as stated in the confirmation of reasonable satisfaction, the undertaker will be liable to pay to the relevant local highway authority the reasonable costs of repairing or rectifying any defect in the highway which, in the opinion of the relevant local highway authority (acting reasonably) was caused by or is attributable to the carrying out of street works by the undertaker.

(4) The reasonable costs set out in paragraph (3) may include the costs of the time of the relevant local highway authority's officers and employees incurred in the remediation or rectification of a defect as well as the cost of the remediation or repair, whether carried out by the local highway authority or on their instruction. The costs payable under paragraph (3) must be paid by the undertaker in full within 30 days of receipt of an invoice for such costs provided that such invoice includes a breakdown of the charges incurred and is accompanied by copies of any invoices received by the relevant local highway authority for works undertaken to remedy or repair the defect.

(5) Any difference arising between the undertaker and the relevant local highway authority under this Part of this Schedule (other than in difference as to the meaning or construction of this Part of this Schedule) will be resolved by arbitration under article 49 (arbitration).

## PART 19

### For the protection of drainage authorities

**242.**The provisions of this Part of this Schedule apply for the protection of the drainage authority unless otherwise agreed between the undertaker and the drainage authority.

**243.** In this Part of this Schedule—

“construction” includes execution, placing, altering, laying, replacing, relaying, connecting, building, installing, removal and excavation, and “construct” and “constructed” are to be construed accordingly;

“the drainage authority means—

- (a) the drainage board concerned within the meaning of section 23(a) (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991; or
- (b) in the case of any area for which there is no such drainage board, the lead local flood authority within the meaning of section 6 (other definitions) of the Flood and Water Management Act 2010(b);

“drainage work” means any ordinary watercourse and includes any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence in connection with an ordinary watercourse which is the responsibility of the drainage authority;

“ordinary watercourse” has the same meaning as given in section 72 (interpretation) of the Land Drainage Act 1991(a);

“plans” includes sections, drawings, specifications and method statements; and

“specified work” means works carried out in relation to or which may alter or obstruct any ordinary watercourse including by—

- (c) erecting any mill dam, weir or other similar obstruction to the flow of the watercourse, or raising or otherwise altering any such obstruction;
- (d) construction or installation of a bridge or other crossing structure;
- (e) installing a culvert in the watercourse; or
- (f) altering a watercourse or a culvert or other form of drainage infrastructure in a manner that would be likely to affect the flow of the watercourse.

**244.**—(1) Before beginning to construct any specified work, the undertaker must submit to the drainage authority plans of the work, and such further particulars as the drainage authority may within 14 days of the first submission of the plans reasonably require.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority, or determined under paragraph 250

(3) The drainage authority must approve or refuse approval of the plans for a specified work within 56 days of receipt of the later of—

- (a) the plans under sub-paragraph (1); or
- (b) such further particulars as the drainage authority may reasonably require under sub-paragraph (1).

(4) Any approval of the drainage authority required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is to be deemed to have been given if it is neither given nor refused within the period specified in sub-paragraph (3); and
- (c) may be given subject to such reasonable requirements or conditions as the drainage authority may make for the protection of any ordinary watercourse or for the prevention of flooding.

**245.** The requirements or conditions which the drainage authority may make under paragraph 244 include conditions requiring the undertaker at its own expense to construct such protective works (including any new works as well as alterations to existing works) as are reasonably necessary—

- (a) to safeguard any ordinary watercourse against damage, or
- (b) to secure that the efficiency of any ordinary watercourse for flood defence or land drainage purposes is not impaired and that the risk of flooding is not otherwise increased, by reason of the specified work in relation to the ordinary watercourse.

**246.**—(1) Any specified work in relation to an ordinary watercourse, and all protective works required by the drainage authority under paragraph 244, must be constructed to the reasonable satisfaction of the drainage authority and an officer of the drainage authority is entitled, on giving such notice as may be reasonable in the circumstances, to inspect and watch the construction of such works.

(2) The undertaker must give to the drainage authority not less than 14 days’ notice of its intention to commence construction of any specified work and the undertaker must give to the drainage authority notice of completion of a specified work not later than 7 days after the date on which it is brought into use.

(3) If any part of a specified work in, over or under any ordinary watercourse is constructed otherwise than in accordance with the requirements of this Part of this Schedule or as agreed between the undertaker and the drainage authority, the drainage authority may by notice require the undertaker at its own expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld) at the undertaker’s expense to remove, alter or pull down the work and, where removal is agreed, to restore the site to its former condition to such extent and within such limits as the drainage authority reasonably requires.

(4) Subject to sub-paragraph (5), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (3) is served upon the undertaker, it has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress toward their implementation, the drainage authority may execute the works specified in the notice, subject to the undertaker having the right to supervise the planning and execution of such works to the extent they may affect the pipeline to the extent that those works are compliant with and do not compromise the undertaker's ability to comply with the Pipeline Safety Regulations 1996, and any expenditure reasonably incurred by it in so doing is to be recoverable from the undertaker. Notwithstanding the foregoing, the drainage authority may not under any circumstances undertake any works to the pipeline itself which could or would conflict with the duties and obligations of the undertaker under the Pipeline Safety Regulations 1996, any direction issued by the Health and Safety Executive under those Regulations or any other health and safety legislation relating to the operation and maintenance of the pipeline.

(5) In the event of any dispute as to whether sub-paragraph (3) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority must not, except in an emergency, exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined.

**247.**—(1) From the commencement of the construction of any specified work until the date falling 12 months from the date of completion of the specified work (“the maintenance period”), the undertaker must at its expense, maintain in at least as good repair and condition immediately prior to commencement of the construction of the specified work and keep free from obstruction any part of a drainage work which is situated within land held or occupied by the undertaker in respect of the specified work, whether the drainage work is constructed under this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain during the maintenance period is not maintained to the reasonable satisfaction of the drainage authority, it may by notice require the undertaker to maintain the drainage work at the undertaker's expense, or any part of it, to such extent as the drainage authority reasonably requires.

(3) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is necessary for such compliance, subject to the undertaker having the right to supervise the planning and execution of such works to the extent they may affect the pipeline to the extent that those works are compliant with and do not compromise the undertaker's ability to comply with the Pipeline Safety Regulations 1996, and may recover any expenditure reasonably incurred by it in doing so from the undertaker. Notwithstanding the foregoing, the drainage authority may not under any circumstances undertake any works to the pipeline itself which could or would conflict with the duties and obligations of the undertaker under the Pipeline Safety Regulations 1996, any direction issued by the Health and Safety Executive under those Regulations or any other health and safety legislation relating to the operation and maintenance of the pipeline.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the drainage authority must not, except in a case of emergency, exercise the powers of sub-paragraph (3) until the dispute has been finally determined.

(5) This paragraph does not apply to—

- (a) drainage works which are vested in the drainage authority, or which the drainage authority or another person is liable to maintain and is not prevented by this Order from so doing; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule provided that any obstruction is removed as soon as reasonably practicable.

**248.** Subject to paragraph 247(5)(b), if by reason of the construction of any specified work or of the failure of any such work the efficiency of any ordinary watercourse for flood defence or land drainage purposes is impaired, or that watercourse is otherwise damaged, so as to require remedial

action, such impairment or damage must be made good by the undertaker at its own expense to the reasonable satisfaction of the drainage authority and if the undertaker fails to do so, the drainage authority may make good the same and recover the expense reasonably incurred by it in so doing from the undertaker.

**249.**—(1) The undertaker must make reasonable compensation to the drainage authority for costs, charges and expenses which it may reasonably incur or which it may sustain—

- (a) in the examination or approval of plans under this Part of this Schedule; and
- (b) in the inspection and supervision of the construction of a specified work in respect of an ordinary watercourse or any protective works required by the drainage authority under this Part of this Schedule.

**250.** Any dispute arising between the undertaker and the drainage authority under this Part of this Schedule is to be determined by arbitration in accordance with article 49 (arbitration) of the Order.

## PART 20

### For the protection of Exolum Pipeline System Ltd

#### Application

**251.** For the protection of Exolum the following provisions, unless otherwise agreed in writing at any time between the undertaker and Exolum, have effect.

#### Interpretation

**252.** In this Part of this Schedule, the following terms have the following meanings—

“Additional Rights” means rights for the construction and for access to and for the use, protection, inspection, maintenance, repair and renewal of retained Apparatus including any restrictions on the landowner and occupiers for the protection of the retained Apparatus and to allow Exolum to perform its functions.

“Alternative Apparatus” means alternative apparatus adequate to enable Exolum to fulfil its functions as a pipeline operator in a manner not less efficient than previously.

“Alternative Rights” means rights for the construction and for access to and for the use, protection, inspection, maintenance, repair and renewal of Alternative Apparatus including any restrictions on the landowner and occupiers for the protection of the Alternative Apparatus and to allow Exolum to perform its functions.

“Apparatus” means the pipeline and storage system and any ancillary apparatus owned and/or operated by Exolum and includes:

- (a) any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;
- (b) any ancillary works, all protective wrappings, valves, sleeves and slabs, cathodic protection units, together with ancillary cables and markers;
- (c) such legal interest, and benefit of property rights and covenants as are vested in in respect of these items;

and, where the context allows, includes Alternative Apparatus.

“Application” means the application to the Secretary of State for the Order made by the undertaker under the Planning Act 2008 on 3 October 2022.

“Authorised Development” has the same meaning as that given in article 2(1) (interpretation) of the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Schedule.

“Commence” has the same meaning as that given in article 2(1) of the Order (and commencing must be construed accordingly).

“Deed of Consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus or to provide for access to Apparatus in a manner consistent with the terms of this Part of this Schedule.

“Exolum” means Exolum Pipeline System Ltd (company number 09497223) and for the purpose of enforcing the benefit of any provisions in this Schedule, any group company of Exolum Pipeline System Ltd and in all cases any successor in title.

“Expert” is a person appointed in accordance with paragraphs 307 to 315 to resolve a dispute under this Schedule.

“Functions” includes powers, duties and commercial undertaking.

“in” in a context referring to Apparatus in land includes a reference to Apparatus under, over or upon land.

“Order” means the order granting development consent, made by the Secretary of State and brought into force following the Application under the Planning Act 2008.

“parties” means the undertaker and Exolum and “party” is to be construed accordingly.

“Plan” includes all designs, drawings, sections, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary to allow Exolum to assess the relevant works to be executed properly and sufficiently and in particular must describe:

- (d) the exact position of the works;
- (e) the level at which the works are proposed to be constructed or renewed;
- (f) the manner of the works’ construction or renewal including details of excavation, positioning of plant etc.;
- (g) the position of the affected Apparatus and/or Premises and any other apparatus belonging to another undertaker;
- (h) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (i) any intended maintenance regime;
- (j) details of the proposed method of working and timing of execution of works; and
- (k) details of vehicle access routes for construction and operational traffic.

“Premises” means land that Exolum owns, occupies or otherwise has rights to use including but not limited to storage facilities, administrative buildings and jetties.

“Protective Works” means works for the inspection and protection of Apparatus.

“Restricted Works” means any works that are near to, or will or may affect any Apparatus or Premises including:

- (l) all works within 15 metres measured in any direction of any Apparatus including embankment works and those that involve a physical connection or attachment to any Apparatus,
- (m) the crossing of Apparatus by other utilities,
- (n) the use of explosives within 400 metres of any Apparatus or Premises,
- (o) piling, undertaking of a 3D seismic survey or the sinking boreholes within 30 metres of any Apparatus or Premises,
- (p) all works that impose a load directly upon the Apparatus, wherever situated

whether carried out by the undertaker or any third party in connection with the Authorised Development.

“Working Day” means any day other than a Saturday, Sunday or English bank or public holiday.



## **Acquisition of Apparatus**

**253.**—(1) Regardless of any other provision in the Order or anything shown on the land plans or if the Order covers any Premises or interest in any land in which any Apparatus is placed or over which access to any Apparatus is enjoyed:

- (a) The undertaker must not, otherwise than by agreement with Exolum, acquire any Apparatus or Exolum's rights in respect of Apparatus;
- (b) Where the undertaker acquires the freehold of any land in which Exolum holds an interest, the undertaker must afford to or secure for Exolum such rights in land in substitution for any right which would be extinguished by that acquisition (the replacement rights). These replacement rights must be granted upon substantially the same terms and conditions as the right to be extinguished, unless otherwise agreed between the undertaker and Exolum, and must be granted or put in place contemporaneously with the extinguishment of the right which they replace;
- (c) the undertaker must not, otherwise than in accordance with this Schedule:
  - (i) obstruct or render less convenient the access to any Apparatus or Premises;
  - (ii) interfere with or affect Exolum's ability to carry out its functions as an oil pipeline operator;
  - (iii) require that Apparatus is relocated or diverted; or
  - (iv) remove or required to be removed any Apparatus;
- (d) any right of Exolum to maintain, repair, renew, adjust, alter or inspect Apparatus may not be extinguished until any necessary Alternative Apparatus has been constructed, it is in operation and the Alternative Rights have been granted, all to the reasonable satisfaction of Exolum; and
- (e) any right of Exolum to access the Exolum Apparatus and/or Premises must not be extinguished until necessary alternative access has been provided to Exolum's reasonable satisfaction.

**254.** Prior to the carrying out of any Restricted Works or any works authorised by this Order that will affect the existing rights of Exolum, the parties must use all reasonable endeavours to negotiate and enter into such Deeds of Consent (crossing consent) and (if necessary) variations to the existing rights upon such terms and conditions as may be agreed between Exolum and the undertaker acting reasonably and which must be no less favourable on the whole to Exolum than this Schedule, and it will be the responsibility of the undertaker to procure and / or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such works.

**255.** Where the undertaker acquires land which is subject to any existing rights held by Exolum and the provisions of paragraph 265 do not apply, the undertaker must:

- (a) Retain any notice of the existing rights held by Exolum on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) provide up to date official entry copies to Exolum within 20 working days of receipt of such up to date official entry copies.

**256.** Where the undertaker takes temporary possession of any land or carries out survey works on land in respect of which Exolum has an easement, right, asset, interest, Apparatus or Premises:

- (a) where reasonably necessary, and provided that all health and safety requirements are complied with, including any requirements applicable to the undertaker under the Construction, Design and Management Regulations 2015, Exolum may exercise its rights to access such land:
  - (i) in an emergency, without notice but in all such instances Exolum will notify the undertaker as soon as reasonably practicable and until service of such notice, entry will be at Exolum's own risk; and

- (ii) in non-emergency circumstances, having first given prior written notice to the undertaker in order to allow the parties to agree the timing of their respective works during the period of temporary possession; and
- (b) the undertaker may not remove or in any way alter Exolum's rights in such land, unless in accordance with the provisions of this Order.

### **Removal of Apparatus and Rights for Alternative Apparatus**

**257.** If, having used all reasonable endeavours to implement the Authorised Development without the removal of any Apparatus:

- (a) the undertaker reasonably requires the removal of any Apparatus; or
- (b) Exolum reasonably requires the removal of any Apparatus;

then the relevant party must give written notice of that requirement to the other.

**258.** The parties must use all reasonable endeavours to produce a plan of the work proposed and a plan of the proposed position of the Alternative Apparatus to be provided or constructed.

**259.** The undertaker must afford to Exolum the necessary facilities and rights for the construction of Alternative Apparatus and subsequently the grant of Alternative Rights in accordance with paragraphs 265 to 269.

**260.** Any Alternative Apparatus is to be constructed in land owned by the undertaker or in land in respect of which Alternative Rights have been or are guaranteed to be granted to Exolum. The Alternative Apparatus must be constructed in such manner and in such position or situation as may be agreed between Exolum and the undertaker or in default of agreement settled by expert determination in accordance with paragraphs 304 to 315.

**261.** After the details for the works for Alternative Apparatus to be provided or constructed have been agreed or settled by expert determination in accordance with paragraphs 304 to 315, and after the grant to Exolum of any such facilities and rights as are referred to in paragraph 257, Exolum must proceed as soon as reasonably practicable using all reasonable endeavours to construct and bring into operation the Alternative Apparatus and subsequently to remove (or if agreed between the parties to allow the undertaker to remove) any redundant Apparatus required by the undertaker to be removed under the provisions of this Schedule.

**262.** The following paragraphs 263 and 264 only apply if:

- (a) Exolum fails to comply with its obligations under paragraph 261 to remove any redundant Apparatus; and
- (b) the undertaker has served notice on Exolum specifying the default; and
- (c) Exolum has failed to remedy the default within 28 days.

**263.** In the circumstances set out in paragraph 262, if the undertaker then gives notice in writing to Exolum that it will remove the redundant Apparatus, that work, instead of being executed by Exolum, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Exolum.

**264.** Nothing in paragraph 263 authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any Apparatus, or execute any filling around the Apparatus (where the Apparatus is laid in a trench) within 3000 millimetres of the Apparatus unless that Apparatus is redundant and disconnected from Exolum's remaining system.

### **Facilities and Rights for Alternative Apparatus**

**265.** Where, in accordance with the provisions of this Schedule, the undertaker affords to Exolum facilities and rights for the construction of Alternative Apparatus and the grant of Alternative Rights, in substitution for Apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Exolum in accordance with this

Schedule or in default of agreement settled by expert determination in accordance with paragraphs 304 to 315.

**266.** Alternative Rights must be granted before any Alternative Apparatus is operating as part of the pipeline and storage system which forms the Apparatus.

**267.** The parties agree that the Alternative Rights be granted by way of a 999 year lease, substantially in the form of Exolum's precedent from time to time as amended by written agreement between the parties acting reasonably.

**268.** Nothing in this Schedule or contained in the Alternative Rights shall require Exolum to divert or remove any Alternative Apparatus.

**269.** If the facilities and rights to be afforded by the undertaker in respect of any Alternative Apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the Expert less favourable on the whole to Exolum than the facilities and rights enjoyed by it in respect of the Apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the Expert will make such provision for the payment of compensation by the undertaker to Exolum as appears to the Expert to be reasonable having regard to all the circumstances of the particular case.

### **Retained Apparatus and Alternative Apparatus: protection**

**270.** Before commencing the execution of any Restricted Works, the undertaker must submit to Exolum a Plan of the works to be executed and any other information that Exolum may reasonably require to allow Exolum to assess the works.

**271.** No Restricted Works are to be commenced until the Plan to be submitted to Exolum under paragraph 270 has been approved by Exolum in writing and are to be carried out only in accordance with the details submitted under paragraph 270 and in accordance with such reasonable requirements as may be notified to the undertaker in writing in accordance with paragraph 272 by Exolum.

**272.** Any approval by Exolum of the Plan of works submitted under paragraph 270 must not be unreasonably withheld or delayed, and Exolum must communicate its approval or refusal of the plans within 56 days of the date of submission of the plan under paragraph 270 and any approval of the Plan of works may be given subject to such reasonable requirements as Exolum may require to be made for:

- (a) the continuing safety and operational viability of any Apparatus and/or Premises; and
- (b) the requirement for Exolum to have reasonable access with or without vehicles to inspect, repair, replace, maintain and ensure the continuing safety and operation or viability of any Apparatus and/or Premises

providing such reasonable requirements are notified to the undertaker in writing.

**273.** Exolum will be entitled to watch and inspect the execution of Restricted Works at any time.

**274.** Where reasonably required by either party, in view of the complexity of any proposed works, timescales, phasing or costs, the parties must with due diligence and good faith negotiate a works agreement for the carrying out of Protective Works or the installation of Alternative Apparatus.

**275.** If in consequence of the works notified to Exolum by the undertaker under paragraph 271, the circumstances in paragraph 7 apply, then the parties will follow the procedure in paragraph 257 onwards.

**276.** Nothing in paragraphs 270 to 275 precludes the undertaker from submitting prior to the commencement of works to protect retained Apparatus or to construct Alternative Apparatus (unless otherwise agreed in writing between the undertaker and Exolum) a new Plan, instead of the Plan previously submitted, in which case the parties will re-run the procedure from paragraph 275 onwards.

**277.** Where Exolum reasonably requires Protective Works, the parties must use all reasonable endeavours to produce a plan of the work proposed and a plan of the proposed position of any physical features to be provided or constructed.

**278.** The undertaker must afford to Exolum the necessary facilities and rights for the construction of Protective Works and subsequently the grant of Additional Rights in accordance with paragraphs 265 to 269.

**279.** Any Protective Works are to be constructed in land owned by the undertaker or in land in respect of which Additional Rights have been or are guaranteed to be granted to Exolum. The Protective Works must be constructed in such manner and in such position or situation as may be agreed between Exolum and the undertaker or in default of agreement settled by expert determination in accordance with paragraphs 304 to 315.

**280.** After the details for the Protective Works to be provided or constructed have been agreed or settled in accordance with paragraphs 305 to 315, and after the grant to Exolum of any such facilities and rights as are referred to in paragraph 259, Exolum must proceed as soon as reasonably practicable using reasonable endeavours to construct and bring into operation the Protective Works.

**281.** Where the undertaker needs to carry out emergency works:

- (a) it must give to Exolum notice before such works commence, or as soon as is reasonably practicable after the works have commenced where it is not reasonably practicable to provide notice prior to commencement;
- (b) the parties will work together to co-ordinate their respective works and agree a plan of those works before such works commence, or as soon as is reasonably practicable after the works have commenced where it is not reasonably practicable to provide notice prior to commencement; and
- (c) it must comply with the conditions imposed under paragraph 272 insofar as is reasonably practicable in the circumstances.

**282.** In this Part of this Schedule, “emergency works” means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

### **Cathodic protection testing**

**283.** Where in the reasonable opinion of Exolum or the undertaker:

- (a) the Authorised Development might interfere with the cathodic protection forming part of Apparatus; or
- (b) any Apparatus might interfere with the proposed or existing cathodic protection forming part of the Authorised Development;

Exolum and the undertaker must co-operate in undertaking the tests which they consider reasonably necessary for ascertaining the nature and extent of such interference and measures for providing or preserving cathodic protection.

**284.** The Parties must carry out the works and enter into such agreements as are reasonably necessary to implement the measures for providing or preserving cathodic protection.

### **Expenses**

**285.**—(1) Subject to the following provisions of these paragraphs 285 to 288, the undertaker must pay to Exolum the reasonable and properly incurred costs and expenses (including reasonable staffing costs if work is carried out in-house) incurred by Exolum in, or in connection with:

- (a) undertaking its obligations under this Schedule including:

- (i) the installation, inspection, removal, alteration, testing or protection of any Apparatus, Alternative Apparatus and/or Protective Works;
- (ii) the execution of any other works under this Schedule; and
- (iii) the review and assessment of Plans;
- (b) the watching of and inspecting the execution of the Authorised Development, any Restricted Works and any works undertaken by third parties as a result of Authorised Development (including the assessment of Plans); and
- (c) imposing reasonable requirements for the protection or alteration of Apparatus affected by the Authorised Development or works as a consequence of the Authorised Development in accordance with paragraph 272;

together with any administrative costs properly and reasonably incurred by Exolum.

**286.** Provided that Exolum takes all reasonable steps to minimise the costs incurred in the following circumstances, there will be no deduction from any sum payable under paragraph 285 as a result of:

- (a) the placing of apparatus of a better type, greater capacity or of greater dimensions, or at a greater depth than the existing Apparatus; or
- (b) the placing of apparatus in substitution of the existing Apparatus that may defer the time for renewal of the existing Apparatus in the ordinary course;

**287.** The scrap value (if any) of any Apparatus removed under the provisions of this Schedule is to be deducted from any sum payable under paragraph 285.

**288.** Upon the submission of proper and reasonable estimates of costs and expenses to be incurred by Exolum, the undertaker must pay Exolum sufficiently in advance but to enable Exolum to undertake its obligations under this Schedule provided that in the event that the costs reasonably incurred by Exolum are less than the amount paid by the undertaker pursuant to this paragraph 288 then Exolum must promptly repay any overpayment to the undertaker within 30 days of the payment of those costs.

### **Damage to property and other losses**

**289.** Subject to paragraphs 290 to 293, the undertaker will:

- (a) indemnify Exolum for all reasonable loss, damage, liability, costs and expenses reasonably suffered or incurred by Exolum directly arising out of:
  - (i) the carrying out of works under this Schedule;
  - (ii) the carrying out of the Authorised Development;
  - (iii) the use or occupation of land over or in the vicinity of any Apparatus or in the vicinity of any Premises in connection with the carrying out of the Authorised Development;
  - (iv) any injury or damage whatsoever to any property, real or personal, including the property of Exolum; and
  - (v) any matters arising out of or in connection with this Order;
- (b) indemnify Exolum against any claim made against, or loss suffered by, Exolum as a result of any act or omission committed by the undertaker's officers, employees, contractors or agents whilst on or in the vicinity of any Apparatus or Premises;
- (c) pay to Exolum on demand the cost reasonably incurred by Exolum in making good any damage to the Apparatus (other than Apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) arising out of the carrying out of works under this Schedule and arising out of the carrying out of the Authorised Development; and
- (d) pay to Exolum the cost reasonably incurred by Exolum in stopping, suspending and restoring the supply through its Apparatus in consequence of the carrying out of works under this Schedule or the carrying out of the Authorised Development;

and make reasonable compensation to Exolum for any other expenses, losses, damages, penalty or costs incurred by Exolum by reason of any such damage or interruption including all claims by third parties.

**290.** The fact that any act or thing may have been done by Exolum on behalf of the undertaker or in accordance with a Plan approved by Exolum or in accordance with any requirement of Exolum or under its supervision will not, subject to paragraph 291, excuse the undertaker from liability under the provisions of paragraph 289.

**291.** The undertaker and Exolum must at all times take reasonable steps to prevent and mitigate any loss, damage, liability, claim, cost or expense (whether indemnified or not) which either suffers in connection with this Schedule.

**292.** The undertaker warrants that:

- (a) the information it or any of its employees, agents or contractors provide to Exolum about the Plans or the Authorised Development and on which Exolum relies in the design of and carrying out of any works is accurate; and
- (b) the undertaker or any of its employees, agents or contractors have exercised all the reasonable skill, care and diligence to be expected of a qualified and experienced member of their respective profession.

**293.** Exolum must give to the undertaker reasonable notice of any claim or demand to which paragraph 289 applies.

## **Insurance**

**294.** The undertaker must not Commence the Authorised Development or any intrusive environmental (including archaeological) surveys and investigation or intrusive site or soil surveys on any land in respect of which Exolum has an easement, right, operations, assets or other interests or carry out any Restricted Works unless and until Exolum has confirmed to the undertaker in writing that it is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker (or its contractor) has procured acceptable professional indemnity insurance, where relevant, and public liability insurance with minimum cover of £25 million per event, with respect to the carrying out of the works.

**295.** The undertaker must maintain such insurance for the construction period of the Restricted Works, being from the proposed date of Commencement of the Authorised Development to the completion of any Restricted Works or Protective Works.

## **Co-operation and reasonableness**

**296.** Where Apparatus is required to be protected, altered, diverted or removed under this Schedule, the undertaker must use all reasonable endeavours to co-ordinate the execution of any works under this Schedule:

- (a) in the interests of safety;
- (b) 47.2 in the interest of the efficient and economic execution of both Exolum's works and the Authorised Development; and
- (c) 47.3 taking into account the need to ensure the safe and efficient operation of Apparatus and carrying out of Exolum's functions.

**297.** Exolum must use all reasonable endeavours to co-operate with the undertaker for the purposes outlined in paragraph 296.

**298.** The undertaker and Exolum must act reasonably in respect of any given term of this Schedule and, in particular, (without prejudice to generality) where any approval, consent or expression of satisfaction is required by this Schedule it must not be unreasonably withheld or delayed.

## **Emergency circumstances**

**299.** The undertaker acknowledges that Exolum provides services to His Majesty's Government, using the Apparatus, which may affect any works to be carried under this Schedule and the Authorised Development.

**300.** In the following circumstances, Exolum may on written notice to the undertaker immediately suspend all works that necessitate the stopping or suspending of the supply of product through any Apparatus under this Schedule and Exolum will not be in breach of its obligations under this Schedule:

- (a) circumstances in which, in the determination of the Government, there subsists a material threat to national security, or a threat or state of hostility or war or other crisis or national emergency (whether or not involving hostility or war); or
- (b) circumstances in which a request has been received, and a decision to act upon such request has been taken, by the Government for assistance in relation to the occurrence or anticipated occurrence of a major accident, crisis or natural disaster; or
- (c) circumstances in which a request has been received from or on behalf of NATO, the EU, the UN, the International Energy Agency (or any successor agency thereof) or the government of any other state for support or assistance pursuant to the United Kingdom's international obligations and a decision to act upon such request has been taken by the Government; or
- (d) any circumstances identified as such by the COBRA committee of the Government (or any successor committee thereof); or
- (e) any situation in connection with which the Government requires fuel capacity, including where the United Kingdom is engaged in any planned or unplanned military operations within the United Kingdom or overseas.

**301.** The parties agree to act in good faith and in all reasonableness to agree any revisions to any schedule, programme or costs estimate (which will include costs of demobilising and remobilising any workforce, and any costs to protect the Apparatus "mid-works") to account for the suspension.

**302.** Exolum is not liable for any costs, expenses, losses or liabilities the undertaker incurs as a result of the suspension of any activities under paragraphs 299 to 302 or delays caused by it.

## **Escalation of differences**

**303.** The undertaker and Exolum must use their reasonable endeavours to secure the amicable resolution of any dispute or difference arising between them out of or in connection with this Schedule in accordance with the following provisions.

**304.** The undertaker and Exolum will each nominate a representative who will meet to try to resolve the matter. If the matter is not resolved at that level within ten working days of either the undertaker or Exolum requesting such a meeting (or such longer period as may be agreed between the undertaker and Exolum) the matter may at the request of either the undertaker or Exolum be referred for discussion at a meeting to be attended by a senior executive from each party.

**305.** If the meeting between senior executives fails to result in a settlement within 20 working days of the date of the request for such a meeting (or if it is not possible to convene a meeting within this period) then either the undertaker or Exolum may refer the matter to expert determination or arbitration in accordance with the provisions of paragraphs 303 to 314.

## **Dispute resolution**

**306.** If any dispute or difference arising out of or in connection with this Schedule is not resolved in accordance with paragraphs 303 to 305, either the undertaker or Exolum may refer the matter to:

- (a) in the case of any dispute or difference pursuant to paragraphs 260, 265, 269 or 283, expert determination under paragraphs 307 to 313; or

(b) in the case of any dispute or difference not falling within paragraphs 306(a), arbitration under article 49 (arbitration) of the Order.

**307.** The parties will agree on the appointment of an independent Expert and must agree with the Expert the terms of their appointment.

**308.** If the parties are unable to agree on an Expert or the terms of their appointment within five working days of either party serving details of a suggested expert on the other, either party will then be entitled to request the Institution of Civil Engineers or its successor to appoint an Expert and to agree with the Expert the terms of their appointment.

**309.** The Expert is required to prepare a written decision including reasons and give notice (including a copy) of the decision to the parties within a maximum of three months of the matter being referred to them.

**310.** If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by paragraph 309 then either party may re-apply to the relevant professional body referred to above to discharge the Expert and to appoint a replacement Expert with the required expertise and this clause will apply to the new Expert as if they were the first Expert appointed.

**311.** The parties are entitled to make submissions to the Expert and will provide the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.

**312.** The Expert will act as an expert and not as an arbitrator. The Expert may award interest as part of their decision. The Expert's written decision on the matters referred to them will be final and binding on the parties in the absence of manifest error or fraud.

**313.** The Expert may direct that any legal costs and expenses incurred by a party in respect of the determination will be paid by another party to the determination on the general principle that costs should follow the event, except where it appears to the Expert that, in the circumstances, this is not appropriate in relation to the whole or part of such costs. The Expert's fees and any costs properly incurred by them in arriving at his determination (including any fees and costs of any advisers appointed by the Expert) will be borne by the parties equally or in such other proportions as the Expert directs.

**314.** The dispute resolution procedure set out in this Schedule will apply to matters dealt with in this Schedule notwithstanding any dispute resolution procedure provided for either in the Order or as part of any other consent in respect of the Authorised Development.

### **Miscellaneous**

**315.** Nothing in this Schedule affects the provisions of any enactment or prior agreement regulating the relations between the undertaker and Exolum in respect of any Apparatus laid or erected in land belonging to the undertaker on the date the Order is granted.

**316.** No failure or delay by a party to exercise any right or remedy provided under this Schedule or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.

## **PART 21**

### **For the protection of the Environment Agency**

**317.**—(1) The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

(2) In this part of this Schedule –



“Agency” means the Environment Agency;

“drainage work” means any main river and includes any land which provides or is expected to provide flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

“flood risk activity permit” means an environmental permit granted under regulation 13 of the Environmental Permitting (England and Wales) Regulations 2016 for the purposes of a flood risk activity;

“main river” has the same meaning given in section 113 of the Water Resources Act 1991;

“specified work” means any development authorised by this Order and carried out in relation to or which may affect any drainage work.

**318.**—(1) Subject to sub-paragraph (4) the undertaker must, for the duration of the construction of the specified work, as far as reasonably practicable maintain in good repair and condition and keep free from obstruction any part of any drainage work which is situated on land held or occupied by the undertaker for the purposes of or in connection with the specified work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) If within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may undertake the works reasonably necessary for such compliance, subject to the undertaker having the reasonable opportunity to supervise the planning and execution of such works to the extent reasonably necessary to ensure they are compliant with and do not compromise the undertaker’s ability to comply with the Pipeline Safety Regulations 1996 and any expenditure reasonably and properly incurred by the Agency in so doing is recoverable from the undertaker. Notwithstanding the foregoing, the Agency may not under any circumstances undertake any works to the pipeline itself which would or would be likely to conflict with the duties and obligations of the undertaker under the Pipeline Safety Regulations 1996, any direction issued by the Health and Safety Executive under those regulations or any other health and safety legislation relating the operation and maintenance of the pipeline.

(4) This paragraph does not apply to-

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; and
- (b) any obstruction of a drainage work expressly authorised in the approval of a flood risk activity permit and carried out in accordance with the provisions of that flood risk activity permit provided that any obstruction is removed as soon as reasonably practicable.

(5) Where the authorised development involves the crossing of any watercourse by open cut trench installation, the use of a dam as part of such installation works shall not constitute an obstruction for the purpose of these provisions.

SCHEDULE 11

Article 40

Removal of hedgerows

PART 1

Removal of hedgerows

<i>(1) Area</i>	<i>(2) Grid coordinates</i>		<i>(3) Identifier</i>	<i>(4) Grid coordinates</i>		<i>(5) Identifier</i>	
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	346785	375868	4a	347022	375902	4b	
	346294	375265	6a	346575	375409	6b	
	346292	375019	8a	346448	375100	8b	
	346203	374951	9a	346332	374872	9b	
	345865	374566	11a	345928	374681	11b	
	345719	374573	13a	345752	374637	13b	
	345691	374534	14a	345700	374566	14b	
	345499	374566	16a	345508	374559	16b	
	345406	374424	17a	345527	374576	17b	
	345402	374427	18a	345406	374424	18b	
	345393	374649	19a	345473	374778	19b	
	345233	374763	20a	345325	374692	20b	
	345140	374609	21a	345241	374775	21b	
	345029	374340	23a	345037	374375	23b	
	345025	374399	24a	345121	374612	24b	
	338243	370613	25a	338253	370606	25b	
	345016	374362	26a	345021	374384	26b	
	344672	373470	30a	344798	373398	30b	
	344631	374707	31a	344681	374744	31b	
	344606	373756	32a	344727	373613	32b	
	344577	374124	34a	344612	374061	34b	
	344583	373750	35a	344649	373774	35b	
	344526	374826	38a	344550	374829	38b	
	344523	373977	39a	344618	374028	39b	
	344510	373273	40a	344552	373268	40b	
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	344544	374793	44a	344505	374788	44b	
		343371	371565	45a	343383	371547	45b
		343147	372270	47a	343217	372199	47b
		342929	372091	51a	342957	372017	51b
	342797	372709	52a	343066	372802	52b	
	342773	371940	53a	342957	372017	53b	
	342645	371389	54a	342686	371384	54b	
	342340	371321	57a	342551	371274	57b	
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<i>(1) Area</i>	<i>(2) Grid coordinates</i>		<i>(3) Identifier</i>	<i>(4) Grid coordinates</i>		<i>(5) Identifier</i>
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	341904	371138	63a	341970	371047	63b
	341611	371039	65a	341700	371076	65b
	341467	371130	66a	341529	371189	66b
	341467	371130	67a	341515	371042	67b
	341386	371217	69a	341555	371545	69b
	341416	371081	71a	341473	371121	71b
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	340908	371357	79a	340954	371326	79b
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	338408	370977	103a	338499	371036	103b
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	338304	370502	107a	338345	370543	107b
	338287	370485	108a	338293	370500	108b
	338250	370603	109a	338253	370606	109b
	338236	370569	110a	338341	370669	110b
	338236	370569	111a	338304	370502	111b
	338227	370562	112a	338293	370500	112b
	338171	370148	114a	338255	370272	114b
	338078	370262	116a	338189	370125	116b
	338078	370068	117a	338162	370042	117b
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	337154	369441	128a	337172	369464	128b
	337096	369519	129a	337108	369538	129b
	337011	369425	130a	337072	369498	130b
	336896	369517	131a	336929	369499	131b
	336894	369447	132a	336922	369425	132b
	336889	369434	133a	336929	369499	133b
	336867	369418	134a	336889	369434	134b
	336780	369506	135a	336889	369434	135b
	336702	369326	136a	336733	369339	136b
	336698	369446	137a	336778	369375	137b
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In the County of Flintshire	336239	367713	148a	336360	367878	148b
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	335345	368019	162a	335419	367962	162b
	335198	366277	163a	335205	366276	163b
	335166	367550	164a	335412	367959	164b
	335087	367588	165a	335156	367543	165b
	335042	367607	166a	335152	367537	166b
	334943	367786	167a	335039	367614	167b
	334921	367141	168a	335150	367525	168b
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	334830	366923	170a	334859	366966	170b
	334704	367059	172a	335344	366659	172b
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	334395	366600	174a	334541	366815	174b
	334275	366437	175a	334316	366404	175b
	334044	366404	176a	334146	366303	176b
	333818	366173	177a	333966	366411	177b
	333659	366309	178a	333729	366232	178b
	333482	366284	179a	333529	366345	179b
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	333388	366375	182a	333441	366456	182b
	333337	366435	183a	333388	366512	183b
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	332741	366946	198a	332748	366966	198b
	332676	367377	199a	332790	367259	199b
	332716	367301	200a	332718	367299	200b
	332700	366983	201a	332759	366962	201b
	332669	367371	202a	332787	367255	202b
	332664	366908	203a	332700	366983	203b
	332664	367347	204a	332717	367297	204b
	332643	367203	205a	332717	367297	205b
	332587	367258	208a	332643	367203	208b
	332587	367258	209a	332664	367347	209b
	332550	366995	210a	332613	367078	210b
	332526	367028	211a	332590	367105	211b
	332359	367497	215a	332432	367575	215b
	332280	367529	216a	332341	367495	216b
	331727	367302	224a	331857	367429	224b
	331530	367209	228a	331541	367347	228b
	331228	367137	230a	331311	367098	230b
	331070	367005	231a	331205	366894	231b
	330957	366836	232a	331000	366727	232b
	330915	366760	235a	330942	366849	235b
	330908	366762	236a	330931	366866	236b
	330651	366885	237a	330714	366843	237b
	330528	366750	238a	330706	366827	238b
	330438	366842	241a	330491	366910	241b
	330414	366978	242a	330438	366842	242b
	330211	367080	243a	330235	367100	243b
	330114	366912	244a	330180	366966	244b
	330104	366922	245a	330138	366883	245b
	330104	366922	246a	330117	366983	246b
	330090	366996	248a	330133	366986	248b
	329986	366784	249a	330104	366922	249b
	329961	367023	250a	330015	367007	250b
	329947	367027	251a	329948	367023	251b
	329909	367035	253a	329943	367028	253b
	329901	367043	254a	329954	367166	254b
	329898	367037	255a	329898	367037	255b
	329882	366859	256a	329916	366837	256b

<i>(1) Area</i>	<i>(2) Grid coordinates</i>		<i>(3) Identifier</i>	<i>(4) Grid coordinates</i>		<i>(5) Identifier</i>
	329865	367251	257a	329954	367165	257b
	329860	366914	258a	329903	366910	258b
	329743	367134	261a	329898	367037	261b
	329612	367250	263a	329684	367215	263b
	329480	367398	264a	329569	367333	264b
	329593	367247	265a	329570	367332	265b
	329305	367310	268a	329378	367221	268b
	329221	367018	269a	329224	367042	269b
	329062	367150	270a	329221	367018	270b
	328807	366603	275a	328888	366632	275b
	328800	366502	276a	328875	366550	276b
	328798	366607	277a	328867	366640	277b
	328731	366404	278a	328753	366430	278b
	328726	366466	280a	328753	366430	280b
	328682	366490	281a	328711	366483	281b
	328653	366393	282a	328770	366410	282b
	328559	366439	283a	328681	366490	283b
	328513	366475	286a	328620	366501	286b
	328450	366614	287a	328480	366638	287b
	328415	366670	288a	328429	366680	288b
	328279	366680	291a	328280	366715	291b
	327958	366851	294a	328010	366935	294b
	327714	367029	297a	327781	367086	297b
	327393	367320	301a	327512	367331	301b
	327252	367349	303a	327298	367324	303b
	327091	367365	304a	327094	367433	304b
	326967	367405	305a	326973	367455	305b
	326966	367405	306a	327019	367382	306b
	326604	367661	310a	326692	367648	310b
	326302	367738	315a	326330	367636	315b
	326218	367619	316a	326239	367615	316b
	326164	367732	317a	326269	367745	317b
	326068	367737	318a	326127	367936	318b
	325952	367770	319a	326068	367737	319b
	325945	367768	320a	325948	367772	320b
	325873	367846	321a	325943	367774	321b
	325873	367846	322a	325948	368011	322b
	325709	367995	323a	325722	368095	323b
	325696	368121	324a	325745	368096	324b
	325659	368161	325a	325742	368162	325b
	325650	368091	326a	325722	368095	326b
	325646	368419	327a	325721	368438	327b
	325645	368137	328a	325748	368084	328b
	325644	368147	329a	325696	368121	329b
	325631	368243	330a	325730	368276	330b
	325617	368405	331a	325646	368419	331b
	325589	368654	335a	325601	368662	335b
	325307	369097	339a	325390	369118	339b

(1) Area	(2) Grid coordinates		(3) Identifier	(4) Grid coordinates		(5) Identifier
	325259	369284	343a	325436	369399	343b
	325253	369808	344a	325328	369868	344b
	325249	369750	345a	325317	369622	345b
	325251	369729	346a	325314	369614	346b
	325181	370133	351a	325202	370107	351b
	325115	370883	353a	325236	370821	353b
	325021	370722	355a	325149	370671	355b
	325054	370798	357a	325069	370825	357b
	321735	372374	360a	321853	372471	360b
	321667	372508	361a	321730	372369	361b
	321671	372509	362a	321733	372549	362b
	321713	372597	363a	321730	372550	363b
	317359	373302	365a	317408	373427	365b
	317408	373427	366a	317441	373485	366b
	317359	373295	367a	317441	373307	367b
	314858	374549	368a	314982	374524	368b
	314858	374549	369a	314832	374486	369b
	314787	374642	370a	314712	374555	370b
	344911	373387	371a	344910	373357	371b

## PART 2

### Removal of important hedgerows

(1) Area	(3) Grid coordinates		(4) Identifier	(5) Grid coordinates		(4) Identifier
	Easting	Northing		Easting	Northing	
In the Borough of Cheshire West and Chester	346624	375332	5a	346664	375246	5b
	346292	375019	7a	346294	375264	7b
	346049	374719	10a	346148	374646	10b
	345039	374387	12a	345144	374595	12b
	345627	374612	15a	345739	374541	15b
	345137	374603	22a	345398	374429	22b
	344751	374565	27a	344807	374608	27b
	344707	374590	28a	344795	374656	28b
	344694	373445	29a	344795	373389	29b
	344599	374805	33a	344624	374809	33b
	344539	373869	36a	344606	373763	36b
	344534	373865	37a	344628	373892	37b
	344502	373275	42a	344506	373277	42b
	343217	372213	46a	343434	372429	46b
	343076	372437	48a	343228	372556	48b
	343063	372424	49a	343222	372203	49b
	342945	371968	50a	343205	372217	50b
	342551	371276	55a	342553	371198	55b
	342371	371314	56a	342371	371220	56b
	342191	371330	60a	342291	371319	60b
341633	371144	64a	341738	371041	64b	
341398	371114	68a	341502	371217	68b	

In the  
County of  
Flintshire

341369	371155	70a	341423	371258	70b
341357	371041	72a	341371	371028	72b
341344	371060	73a	341357	371041	73b
341137	371423	74a	341340	371196	74b
341127	371421	75a	341351	371185	75b
340954	371326	77a	340974	371368	77b
340954	371326	78a	340990	371269	78b
340778	371314	80a	340836	371229	80b
340643	371289	81a	340700	371201	81b
340364	371214	82a	340399	371152	82b
340231	371186	83a	340357	371251	83b
339914	371154	86a	339964	371033	86b
339077	370769	88a	339211	370710	88b
338811	370884	92a	338890	370951	92b
338646	371110	95a	338684	371119	95b
338646	371110	96a	338811	370884	96b
338623	371117	97a	338647	371068	97b
338404	370985	104a	338478	370910	104b
338312	370737	106a	338334	370755	106b
338199	369957	113a	338216	369986	113b
338081	370260	115a	338233	370393	115b
338033	369865	120a	338120	369812	120b
337739	369580	122a	337843	369618	122b
337586	369599	123a	337724	369622	123b
337412	369476	124a	337642	369511	124b
337389	369566	125a	337415	369465	125b
337383	369549	126a	337399	369466	126b
336696	369311	138a	336725	369327	138b
336639	369370	141a	336702	369326	141b
335599	368576	157a	335897	368938	157b
334798	367194	171a	334925	367117	171b
332904	366926	196a	332964	366986	196b
332637	367004	206a	332691	366972	206b
332600	366945	207a	332647	367039	207b
332512	367500	212a	332574	367438	212b
332510	367498	213a	332512	367500	213b
332413	367593	214a	332512	367500	214b
332273	367501	217a	332288	367601	217b
332259	367501	218a	332272	367584	218b
332104	367495	219a	332272	367584	219b
332104	367495	220a	332142	367420	220b
331969	367402	221a	332062	367499	221b
331877	367426	222a	331943	367496	222b
331862	367425	223a	331921	367377	223b
331661	367352	225a	331713	367302	225b
331652	367350	226a	331688	367310	226b
331545	367204	227a	331556	367347	227b
331469	367345	229a	331537	367288	229b
330944	366855	233a	330955	366844	233b
330492	366911	239a	330508	366932	239b



330444	366959	240a	330492	366911	240b
330102	366928	247a	330103	366925	247b
329922	366843	252a	329986	366785	252b
329761	367123	259a	329864	367248	259b
329761	367123	260a	329901	367043	260b
329612	367366	262a	329612	367256	262b
328932	366825	271a	328966	366838	271b
328872	366730	272a	328893	366779	272b
328870	366885	273a	328932	366825	273b
328829	366781	274a	328886	366782	274b
328716	366479	279a	328751	366522	279b
328557	366467	284a	328653	366493	284b
328527	366460	285a	328557	366467	285b
328353	366747	289a	328460	366562	289b
328280	366717	290a	328306	366790	290b
328108	366779	292a	328280	366717	292b
328069	366797	293a	328119	366884	293b
327663	367004	295a	327813	367131	295b
327714	367027	296a	327781	366960	296b
327698	367024	298a	327720	367006	298b
327695	367023	299a	327698	367024	299b
327544	367308	300a	327550	367172	300b
327351	367408	302a	327405	367174	302b
326832	367465	307a	326966	367405	307b
326702	367616	308a	326841	367604	308b
326680	367522	309a	326694	367649	309b
326594	367585	311a	326604	367661	311b
326484	367713	312a	326550	367712	312b
326471	367636	313a	326484	367713	313b
326407	367723	314a	326426	367724	314b
325609	368499	332a	325704	368265	332b
325589	368493	333a	325684	368517	333b
325589	368653	334a	325655	368525	334b
325583	368501	336a	325678	368529	336b
325515	368599	337a	325601	368507	337b
325515	368599	338a	325589	368653	338b
325285	371191	340a	325386	371067	340b
325278	369143	341a	325343	368935	341b
325269	371159	342a	325280	371190	342b
325234	370069	347a	325282	370100	347b
325228	370076	348a	325257	370093	348b
325203	370107	349a	325280	370151	349b
325181	369471	350a	325299	369558	350b
325118	370888	352a	325269	371159	352b
325054	370382	354a	325136	370425	354b
324975	370644	356a	325094	370577	356b
324927	370546	358a	325114	370883	358b
324927	370546	359a	325136	370425	359b
317403	373102	364a	317359	373295	364b

## SCHEDULE 12

Article 49

### Arbitration rules

#### Primary objective

1.—(1) The primary objective of these Arbitration Rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within 4 months from the date the Arbitrator is appointed pursuant to article 49 (arbitration) of the Order.

(2) The Parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the Parties. Any dispute which is not resolved amicably by the senior management of the Parties within twenty business days of the dispute arising, or such longer period as agreed in writing by the Parties, will be subject to arbitration in accordance with the terms of this Schedule.

(3) The Arbitration will be deemed to have commenced when a party (“the Claimant”) serves a written notice of arbitration on the other party (“the Respondent”).

#### Time periods

2.—(1) All time periods in these Arbitration Rules will be measured in business days and this will exclude weekends, bank and public holidays.

(2) Time periods will be calculated from the day after the Arbitrator is appointed which will be either—

- (a) the date the Arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or
- (b) the date the Arbitrator is appointed by the Secretary of State.

#### Timetable

3.—(1) The timetable for the arbitration will be that set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 15 days of the Arbitrator being appointed, the Claimant must provide both the Respondent and the Arbitrator with—

- (a) a written Statement of Claim which describes the nature of the difference between the parties, the legal and factual issues, the Claimant’s contentions as to those issues, and the remedy it is seeking; and
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 15 days of receipt of the Claimant’s statements under sub-paragraph (2) by the Arbitrator and Respondent, the Respondent must provide the Claimant and the Arbitrator with—

- (a) a written Statement of Defence responding to the Claimant’s Statement of Claim, its statement in respect of the nature of the difference, the legal and factual issues in the Claimant’s claim, its acceptance of any element(s) of the Claimant’s claim, its contentions as to those elements of the Claimant’s claim it does not accept;
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and
- (c) any objections it wishes to make to the Claimant’s statements, comments on the Claimant’s expert report(s) (if submitted by the Claimant) and explanations for the objections.

(4) Within 5 days of the Respondent serving its statements sub-paragraph (3), the Claimant may make a Statement of Reply by providing both the Respondent and the Arbitrator with—

- (a) a written statement responding to the Respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
- (b) all statements of evidence and copies of documents in response to the Respondent's submissions;
- (c) any expert report in response to the Respondent's submissions;
- (d) any objections to the statements of evidence, expert reports or other documents submitted by the Respondent; and
- (e) its written submissions in response to the legal and factual issues involved.

## **Procedure**

4.—(1) The Arbitrator will make an award on the substantive difference based solely on the written material submitted by the parties unless the Arbitrator decides that a hearing is necessary to explain or resolve any matters.

(2) Either party may, within 2 days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(3) Within 5 days of receiving the last submission, the Arbitrator will notify the parties whether a hearing is to be held and the length of that hearing.

(4) Within 10 days of the Arbitrator advising the parties that he will hold a hearing, the date and venue for the hearing will be fixed by agreement with the parties, save that if there is no agreement the Arbitrator must direct a date and venue which he considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the Arbitrator's direction confirming the date and venue of the hearing.

(5) A decision will be made by the Arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the Arbitrator, then any expert(s) attending the hearing may be asked questions by the Arbitrator.

(6) There will be no process of examination and cross-examination of experts, but the Arbitrator will invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the Arbitrator's questions. Prior to the hearing the procedure for the expert(s) will be that—

- (a) at least 20 days before a hearing, the Arbitrator will provide a list of issues to be addressed by the expert(s);
- (b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 10 days of the issues being provided; and
- (c) the form and content of a joint report will be as directed by the Arbitrator and must be provided at least 5 days before the hearing.

(7) Within 10 days of a Hearing or a decision by the Arbitrator that no hearing is to be held the Parties may by way of exchange provide the Arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The Arbitrator will take these submissions into account in the Award.

(8) The Arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within 4 months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(9) If a party fails to comply with the timetable, procedure or any other direction then the Arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(10) The Arbitrator's award must include reasons. The parties will accept that the extent to which reasons are given is to be proportionate to the issues in dispute and the time available to the Arbitrator to deliver the award.

### **Arbitrator's powers**

5.—(1) The Arbitrator has all the powers of the Arbitration Act 1996(a), including the non-mandatory sections, save where modified by these Rules.

(2) There will be no discovery or disclosure, except that the Arbitrator has the power to order the parties to produce such documents as are reasonably requested by another party no later than the Statement of Reply, or by the Arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the Arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the Arbitrator. In the absence of agreement, the Arbitrator may vary the timescales and/or procedure—

- (a) if the Arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;
- (b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the Arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the Arbitrator's fees and expenses.

### **Costs**

6.—(1) The costs of the Arbitration will include the fees and expenses of the Arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the Arbitration.

(2) Subject to sub-paragraph (3), the Arbitrator will award recoverable costs on the general principle that each party should bear its own costs.

(3) The Arbitrator may depart from the general principle in sub-paragraph (2) and make such other costs award as it considers reasonable where a party has behaved unreasonably as defined within the National Planning Practice Guidance or such other guidance as may replace it.

### **Confidentiality**

7.—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation will be confidential and will only be publically disclosed where required by law or with the agreement of both parties.

(2) The Arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph prevents any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order grants development consent for, and authorises the construction, operation and maintenance of a pipeline for the transport of carbon dioxide from Ince, near Stanlow in the County of Cheshire and Chester West to the Point of Ayr Terminal, Talacre, Flintshire. This Order imposes requirements in connection with the development and authorises the compulsory purchase of land (including rights in land) and the right to use land and to override easements and other rights. A copy of the plans and book of reference referred to in this Order and certified in accordance with article 45 (certification of plans) may be inspected free of charge at the offices of Liverpool Bay CCS at Eni House, 10 Ebury Bridge Road, London SW1W 8PZ.

## **Appendix E – Alternative to the recommended DCO (The Trenched Crossing Version of the DCO)**

202[ ] No.

**INFRASTRUCTURE PLANNING**

**The HyNet Carbon Dioxide Pipeline Order 202[●]**

*Made* - - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* \*\*\*

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008(a) (“the 2008 Act”) for an Order granting development consent.

The application was examined by a panel of 2 members appointed by the Secretary of State (“the Panel”) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(b).

The panel, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 74(2) of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

The Secretary of State has considered the representations made and not withdrawn, and the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(c), and has had regard to the documents and matters referred to in section 105 of the 2008 Act.

In accordance with section 131(5) of the 2008 Act the Secretary of State is satisfied that where this Order authorises the compulsory acquisition of land forming part of an open space special category land that land is less than 200 square metres in extent and the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.

The Secretary of State is satisfied that open space within the Order land, when burdened with any new rights authorised for compulsory acquisition under the terms of this Order, will be no less advantageous than it was before such acquisition, to the persons whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(3) of the 2008 Act applies.

The Secretary of State, having decided the application, has determined to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120, 122, 123, 131, 132 and schedule 5 of the 2008 Act, makes the following Order:

## PART 1

### Preliminary

#### **Citation and commencement**

- 1.—(1) This Order may be cited as the HyNet Carbon Dioxide Pipeline Order 202[•]
- (2) This Order comes into force on [•] 202[•].

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(a) 2008 c.29. Section 37 was amended by section 128(2) and Schedule 13, Part 1, paragraphs 1 to 5 of the Localism Act 2011 (c.20).  
(b) S.I. 2010/103. This instrument was amended by S.I. 2012/635  
(c) S.I. 2017/572.

## Interpretation

### 2.—(1) In this order—

“1961 Act” means the Land Compensation Act 1961(a);

“1965 Act” means the Compulsory Purchase Act 1965(b);

“1980 Act” means the Highways Act 1980(c);

“1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(d);

“1984 Act” means the Road Traffic Regulation Act 1984(e);

“1990 Act” means the Town and Country Planning Act 1990(f);

“1991 Act” means the New Roads and Street Works Act 1991(g);

“2003 Act” means the Communications Act 2003(h);

“2008 Act” means the Planning Act 2008;

“address” includes any number or address used for the purposes of electronic transmission;

“access and rights of way plans” means the plans certified as such by the Secretary of State for the purposes of this Order;

“AGI” means above ground installation, being a secure compound above ground level containing equipment relating to the pipeline which is necessary for its operation and/or maintenance. The AGIs include PIG facilities, ancillary infrastructure (including lighting and parking provisions), and electrical and instrumentation kiosks;

“ancillary works” means the ancillary works described in Part 2 of Schedule 1 (ancillary works) and any other works authorised by this Order that are not development within the meaning of section 32 of the 2008 Act;

“apparatus” has the same meaning as in section 105(1) of the 1991 Act;

“authorised development” means the development described in Parts 1 and 2 of Schedule 1 (authorised development) and any other development authorised by this Order that is development within the meaning of section 32 of the 2008 Act;

“bank holiday” means a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(i);

“block valve” means an intermediate underground valve which can rapidly stem the flow of the carbon dioxide;

“book of reference” means the document certified as such by the Secretary of State as the book of reference for the purposes of the Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“business day” means a day other than a Saturday or Sunday, Good Friday, Christmas Day or a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971;

“BVS” means block valve station, being a secure compound above ground level containing equipment relating to the pipeline which is necessary for its operation and/or maintenance. The BVSs include a block valve, ancillary infrastructure (including lighting, parking provisions), and above ground electrical and instrumentation kiosks;

“carriageway” has the same meaning as in the 1980 Act;

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(a) 1961 c33.  
(b) 1965 c56.  
(c) 1980 c66.  
(d) 1981 c66.  
(e) 1984 c.27.  
(f) 1990 c.8.  
(g) 1991 c.22.  
(h) 2003 c21.  
(i) 1971 c80

“CEMP” means the construction environmental management plan, including all of its appendices, to be approved under the requirements;

“chief officer of police” means the chief officer of police of the police area in which a power under this Order is sought to be exercised;

“commence” means carry out a material operation, as defined in section 155 of the 2008 Act (which explains when development begins), comprised in or for the purposes of the authorised development other than site preparation works, remediation works, environmental (including archaeological) surveys and investigation, site, utility or soil survey, erection of temporary fencing to site boundaries or marking out of site boundaries, installation of temporary amphibian and reptile fencing, the diversion or laying of services or environmental mitigation measures and any such temporary accesses that may be required in association with these, and “commencement”, “commenced” and cognate expressions are to be construed accordingly;

“crown land plans” means the document certified as the crown land plans by the Secretary of State for the purposes of this Order;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

and in this definition “electronic communications network” has the same meaning as in section 32(1) (meaning of electronic communications networks and services) of the 2003 Act;

“environmental statement” means the document certified by the Secretary of State as the environmental statement for the purposes of this Order;

“existing pipeline” means the existing natural gas pipeline, constructed in accordance with a pipeline construction authorisation and deemed planning permission issued by the Secretary of State on 16 December 1993 under the Pipelines Act 1962 for “a 24 inch natural gas cross-country pipeline from Point of Ayr to Connah’s Quay”, which pipeline is to be repurposed under this Order and along which Work Nos. 51, 53 and 55 are to be constructed;

“general arrangement plans” means the Block Valve Stations Planning Arrangement, Block Valve Stations Elevations, Above Ground Installation Planning Arrangement and Above Ground Installation Elevations certified by the Secretary of State as the general arrangement plans for the purposes of this Order;

“highway authority” means in any given provision of this Order (including the requirements), the highway authority for the highway to which the provision relates;

“land plans” means the document certified as such by the Secretary of State for the purposes of this Order;

“limits of deviation” means the limits of deviation referred to in article 6 (limits of deviation) and shown on the works plans;

“maintain” includes inspect, assess, repair, test, cleanse, adjust, landscape, preserve, make safe, divert or alter the authorised development, and remove, clear, reconstruct, re-new, re-lay, re-furbish, improve, replace, dismantle, demolish, abandon or decommission any part of the authorised development, but must not include the renewal, re-laying, reconstruction or replacement of the entirety of the new pipeline; and any derivative of “maintain” is to be construed accordingly;

“new pipeline” means the pipeline to be constructed and operated as part of the authorised development forming Work Nos. 1, 4, 5, 6, 7, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48 and 50;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

“Order limits” means the limits shown on the works plans within which the authorised development may be carried out;

“outline archaeological written scheme of investigation” means the document certified as such by the Secretary of State for the purposes of this Order;

“outline construction environment management plan” means the document certified as such by the Secretary of State for the purposes of this Order;

“outline construction traffic management plan” means the document certified as such by the Secretary of State for the purposes of this Order;

“outline landscape and ecology management plan” means the document certified as such by the Secretary of State for the purposes of this Order;

“outline operational and maintenance environmental management plan” means the document certified as such by the Secretary of State for the purposes of this Order

“outline surface water drainage strategy report and appendices” means the document certified as such by the Secretary of State for the purposes of this Order;

“PIG” means pipeline inspection gauge, a device used for internal maintenance, cleaning and monitoring of a pipeline;

“pipeline” means the existing pipeline and the new pipeline and includes all of the authorised development including all AGIs and BVSs;

“relevant planning authority” means in any given provision of this Order (including the requirements), the local planning authority—

(a) for the area of land to which the provision relates is situated; and

(b) with the relevant legislative competence under the 1990 Act for the matter to which that provision relates;

“requirements” means those matters set out in Schedule 2 (Requirements) to this Order and a reference to a numbered requirement is a reference to the requirement imposed by the corresponding numbered paragraph of that Schedule;

“special category land plans” means the document certified as such by the Secretary of State for the purposes of this Order;

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act and a public communications provider as defined in section 151 of the 2003 Act;

“street” means a street within the meaning of section 48 of the 1991 Act(a), together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act(b);

“traffic authority” has the same meaning as in the 1984 Act;

“trenchless installation techniques” means the installation of the new pipeline and/or associated telecommunications cabling by means of boring techniques including horizontal directional drilling, auger boring and micro-tunnelling;

“tribunal” means the Lands Chamber of the Upper Tribunal;

“undertaker” means Liverpool Bay CCS limited, incorporated under company number 13194018 and having its registered office at Eni House, 10 Ebury Bridge Road, London SW1W 8PZ; and

“works plans” means the plan or plans certified as such by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

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(a) Section 48 was amended by section 124 (1) and (2) of the Local Transport Act 2008 (c.26).

(b) “Street authority” is defined in section 49, which was amended by section 1(6) and paragraphs 113 and 117 of Schedule 1 to the Infrastructure Act 2015.

(3) All distances, directions, areas and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the relevant plans.

(6) References in this Order to numbered works are references to the works as numbered in Part 1 of Schedule 1 (authorised development).

(7) References to any statutory body includes that body's successor bodies from time to time that have jurisdiction over the authorised development.

(8) In this Order, the expression "includes" is to be construed without limitation.

## PART 2

### Principal Powers

#### **Development consent etc. granted by the Order**

3.—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted—

- (a) development consent for the authorised development; and
- (b) consent for the ancillary works,

to be carried out within the Order limits.

#### **Operation and use of the authorised development**

4.—(1) The undertaker may at any time operate and use the authorised development and the existing pipeline except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) Subject to the provisions of this Order the undertaker is granted consent to use the existing pipeline for the conveyance of carbon dioxide.

(3) The consent granted under paragraphs (1) and (2) does not relieve the undertaker from compliance with any obligation under the Pipeline Safety Regulations 1996(a).

#### **Power to maintain the authorised development**

5.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) Paragraph (1) does not authorise diversion of the authorised development—

- (a) outside the limits of deviation; or
- (b) which would result in the authorised development varying from the description in Part 1 of Schedule 1 (authorised development).

#### **Limits of deviation**

6.—(1) In carrying out or maintaining the authorised development, the undertaker may—

- (a) deviate the works laterally within the extent of the limits of deviation for those works shown on the works plans;

- (b) deviate the pipeline works vertically upwards to a limit of not less than 1.2 metres below the surface of the ground (except where ground conditions make compliance with this upwards limit impracticable in which case the upwards limit is 0.452 metres below the surface of the ground);
- (c) in respect of those sections of the pipeline works which may be constructed and installed using trenchless installation techniques, deviate the pipeline works vertically downwards to such extent as may be found necessary or convenient subject to a maximum depth of 35m;
- (d) deviate works other than the pipeline vertically—
  - (i) upwards or above ground level to the height limits set for those works in Schedule 2 (requirements); and
  - (ii) downwards to any extent as may be found necessary or convenient.

(2) The maximum limits of vertical deviation specified in paragraphs (1)(b), (c) and (d) do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects to those identified in the environmental statement.

### **Benefit of the Order**

7.—(1) Subject to this article, the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Subject to paragraph (3), the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; and
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (2) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

### **Application and modification of legislative provisions**

8.—(1) The following enactments do not apply in relation to the construction of any work or the carrying out of any operation for the purpose of or in connection with, the construction of the authorised development or any maintenance of any part of the authorised development —

- (a) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw making powers of the authority) to the Water Resources Act 1991(a);

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(a) 1991 c. 57. Paragraph 5 was amended by section 100(1) and (2) of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84 of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009 (c. 23), paragraphs 40 and 49 of Schedule 25 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755. Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995 (c. 25), section 224 of, and paragraphs 20 and 24 of Schedule 16, and Part 5(B) of Schedule 22, to, the l.l. and Coastal Access Act 2009 and S.I. 2013/755. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

- (b) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991(a);
- (c) sections 23 (prohibition on obstructions etc. in watercourses) and 30 (authorisation of drainage works in connection with a ditch) of the Land Drainage Act 1991(b); and
- (d) the provisions of the Neighbourhood Planning Act 2017(c) in so far as they relate to the temporary possession of land under articles 34 (temporary use of land for carrying out the authorised development) and 35 (temporary use of land for maintaining the authorised development).

(2) Notwithstanding the provisions of section 208 of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010(b) any building comprised in the authorised development must be deemed to be—

- (a) a building into which people do not normally go; or
- (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

### **Defence to proceedings in respect of statutory nuisance**

**9.**—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraphs (g) (noise emitted from premises so as to be prejudicial to health or a nuisance) and (ga) (noise that is prejudicial to health or nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road) of section 79(1) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974; or
  - (ii) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development;
  - (iii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
  - (iv) is a consequence of complying with a requirement of this Order and that it cannot reasonably be avoided; or
  - (v) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably avoided.

(2) For the purposes of paragraph (1) above, compliance with the controls and measures relating to noise described in the CEMP will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.

(3) Where a relevant planning authority is acting in accordance with section 60(4) and section 61(4) of the Control of Pollution Act 1974 in relation to the construction of the authorised development then the local authority must also have regard to the controls and measures relating to noise referred to in the CEMP approved under Schedule 2 (Requirements).

(4) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of

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(a) 1991 c.59 Section 66 is as substituted by section 31 of, and paragraphs 25 and 38 of Schedule 2 to the Water Management Act 2010 (c.29) and section 86(1) and (3) of the Water Act 2014 (c.21).  
 (b) 1991 c. 59  
 (c) 2017 c.20

premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

(5) In this article “premises” has the same meaning as in section 79 of the Environmental Protection Act 1990(a).

## PART 3

### Streets

#### Street works

**10.**—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Part 1 (streets subject to permanent street works) and Part 2 (streets subject to temporary street works) of Schedule 3 as is within the Order limits and may without the consent of the street authority—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street or carry out works to strengthen or repair the carriageway;
- (c) remove or use all earth and materials in or under the street;
- (d) place apparatus under the street;
- (e) maintain, alter or renew apparatus under the street or change its position;
- (f) demolish, remove, replace and relocate any street furniture within the street;
- (g) execute any works to provide or improve sight lines;
- (h) execute and maintain any works to provide hard and soft landscaping;
- (i) carry out re-lining and placement of road markings;
- (j) remove and install temporary and permanent signage; and
- (k) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (j).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Without limiting the scope of the powers conferred by paragraph (1) but subject to paragraph (4), the undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter on so much of any other street whether or not within the Order limits, for the purposes of carrying out the works set out in paragraph (1).

(4) The powers conferred by paragraph (3) must not be exercised without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent is not to be unreasonably withheld or delayed.

(5) If a street authority that receives an application for consent under paragraph (4) fails to notify the undertaker of its decision within 42 days beginning with the date on which the application was received by that street authority, that authority will be deemed to have granted consent.

(6) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act save that “apparatus” includes pipelines (and parts thereof), fibre optic or other telecommunication cables, aerial markers, cathodic protection test posts, field boundary markers, monitoring kiosks, and electricity cabinets.

#### Power to alter layout, etc. of streets

**11.**—(1) The undertaker may for the purposes of carrying out the authorised development temporarily alter the layout of, or carry out any works in, a street specified in column (2) of Part 2

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(a) 1990 c.43.



of Schedule 3 (streets subject to temporary street works) in the manner specified in relation to that street in column (3).

(2) Without limitation on the specific powers conferred by paragraph (1), but subject to paragraph (4), the undertaker may, for the purposes of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street (and carry out works ancillary to such alterations) whether or not within the Order limits and the layout of any street having a junction with such a street and, without limiting the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any footpath, footway, cycle track, central reservation or verge within the street;
- (b) alter the level or increase the width of any such street, footpath, footway, cycle track, central reservation or verge;
- (c) reduce the width of the carriageway of the street;
- (d) execute any works to widen or alter the alignment of pavements;
- (e) make and maintain crossovers and passing places;
- (f) execute any works of surfacing or resurfacing of the highway;
- (g) carry out works for the provision or alteration of parking places, loading bays and cycle tracks;
- (h) execute any works necessary to alter or provide facilities for the management and protection of pedestrians;
- (i) execute any works to provide or improve sight lines required by the highway authority;
- (j) execute and maintain any works to provide hard and soft landscaping;
- (k) carry out re-lining and placement of new temporary markings; and
- (l) remove and replace kerbs and flume ditches for the purposes of creating permanent and temporary accesses

(3) The undertaker must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article.

(4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent is not to be unreasonably withheld or delayed.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

### **Application of the 1991 Act**

**12.—**(1) The provisions of the 1991 Act mentioned in paragraph (2) that apply in relation to the carrying out of street works under that Act and any regulations made or code of practice issued or approved under those provisions apply (with all necessary modifications) in relation to—

- (a) the carrying out of works under articles 10 (street works) and 11 (power to alter layout etc. of streets);
- (b) the temporary restriction, temporary alteration or temporary diversion of a public right of way by the undertaker under article 13 (temporary restriction of public rights of way); and
- (c) the temporary restriction, temporary alteration or temporary diversion of a street by the undertaker under article 14 (temporary restriction of use of streets);

whether or not the carrying out of the works or the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(2) The provisions of the 1991 Act<sup>(a)</sup> are—

- (a) subject to paragraph (3), section 55 (notice of starting date of works);

---

(a) Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004 (c.18)

- (b) section 57 (notice of emergency works);
- (c) section 60 (general duty of undertakers to co-operate);
- (d) section 68 (facilities to be afforded to street authority);
- (e) section 69 (works likely to affect other apparatus in the street);
- (f) section 76 (liability for cost of temporary traffic regulation);
- (g) section 77 (liability for cost of use of alternative route); and
- (h) all provisions of that Act that apply for the purposes of the provisions referred to in subparagraphs(a) to (g).

(3) Section 55 of the 1991 Act as applied by paragraph (2) has effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(4) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

- (a) section 56(d) (power to give directions as to timing of street works);
- (b) section 56AI (power to give directions as to placing of apparatus);
- (c) section 58(f) (restriction on works following substantial road works);
- (d) section 58A(g) (restriction on works following substantial street works); and
- (e) schedule 3A(h) (restriction on works following substantial street works).

### **Temporary restriction of public rights of way**

**13.—**(1) The undertaker may, in connection with the carrying out of the authorised development, temporarily restrict, prevent use of or stop up each of the public rights of way specified in column (2) Schedule 6 (public rights of way to be temporarily restricted) to the extent specified in column (3), by reference to the numbered points shown on the access and rights of way plans.

(2) The public rights of way specified in Schedule 6 (public rights of way to be temporarily restricted) may not be temporarily stopped up under this article unless an alternative public right of way is first provided by the undertaker to the reasonable satisfaction of the relevant local highway authority.

(3) The relevant diversion route provided under paragraph (2) will be subsequently maintained by the undertaker until the re-opening of the relevant public right of way specified in paragraph (1).

(4) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) If a street authority which receives an application for confirmation that an alternative public right of way is satisfactory under paragraph (2) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

### **Temporary restriction of use of streets**

**14.—**(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic or a class of traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limiting paragraph (1), the undertaker may use any street temporarily stopped up under the powers conferred by this article within the Order limits as a temporary working site.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) Without limiting paragraph (1), the undertaker may temporarily stop up, alter or divert the streets set out in column (2) of Schedule 5 (streets to be temporarily stopped up or restricted) to the extent specified, by reference to the letters and numbers shown on the access and rights of way plans, in column (3) of that Schedule.

(5) The undertaker must not temporarily stop up, alter, divert or use as a temporary working site, any street other than those referred to in Schedules 5 (streets to be temporarily stopped up or restricted); and 6 (public rights of way to be temporarily restricted) without the consent of the street authority, which may attach reasonable conditions to the consent but such consent is not to be unreasonably withheld or delayed.

(6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) If a street authority which receives an application for consent under paragraph (5) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

### **Access to works**

**15.—**(1) The undertaker may, for the purposes of the authorised development, form and lay out means of access, or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) Subject to paragraph (3), the power set out in paragraph (1) may not be exercised without the undertaker having first obtained the consent of the street authority which may attach reasonable conditions to any consent, but such consent is not to be unreasonably withheld or delayed, following consultation by the street authority with the relevant planning authority. If the street authority which has received an application for consent under this paragraph fails to notify the undertaker of its decision before the end of the 42 day period beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

(3) The consent of the street authority is not required for the formulation, laying out or improvement of a new or existing means of access as described in Part 1 of Schedule 1 (authorised development) and Schedule 4 (new means of access).

### **Agreements with street authorities**

**16.—**(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street including any structure carrying the street over or under any part of the authorised development;
- (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (c) any stopping up, alteration or diversion of a street authorised by this Order; or
- (d) the carrying out in the street of any of the works referred to in article 10 (street works).

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and street authority specifying a reasonable time for completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

### **Use of private roads**

**17.—**(1) Subject to paragraphs (2), (3) and (4), the undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and

machinery) for the purposes of, or in connection with, the construction and maintenance of the authorised development.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may only use a private road under paragraph (1) for such time as the power to take temporary possession of the land upon which it is located under either article 34 (temporary use of land for carrying out the authorised development) and article 35 (temporary use of land for maintaining the authorised development) is capable of being exercised under those articles in relation to that land.

### **Traffic regulation**

**18.**—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which may attach reasonable conditions to any consent but which consent must not be unreasonably withheld or delayed, the undertaker may at any time, for the purposes of, or in connection with, the construction of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,  
either at all times or at times, on days or during such periods as may be specified by the undertaker.

(2) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (3).

(3) The undertaker must not exercise the powers conferred by paragraph (1) unless it has—

- (a) given not less than 42 days' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker's intention as provided for in sub-paragraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1)—

- (a) has effect as if duly made by, as the case may be—
  - (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
  - (ii) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking spaces) of the 1984 Act,  
and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and
- (b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(a).

(5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of

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(a) 2004 c.18.

paragraph (1) within a period of 24 months from the commencement of operation of the authorised development.

(6) Before exercising the powers conferred by paragraph (1), the undertaker must consult such persons as it considers necessary and appropriate and must take into consideration any representations made to it by any such person.

(7) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(8) If the traffic authority fails to notify the undertaker of its decision within 42 days of receiving an application for consent under paragraph (1) the traffic authority is deemed to have granted consent.

(9) The power conferred by paragraph (1) may be exercised at any time prior to the expiry of 12 months from the commencement of operation of the authorised development but subject to paragraph (5) any prohibition, restriction or other provision made under paragraph (1) may have effect both before and after the expiry of that period.

## PART 4

### Supplemental powers

#### Discharge of water

**19.**—(1) Subject to paragraphs (3) and (4) below the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may inspect, lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or by the undertaker pursuant to paragraph (1) is determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(a).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld or delayed.

(4) The undertaker must not carry out any works to any public sewer or drain pursuant to paragraph (1) except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of, or construct any works within any watercourse forming part of a main river, or within 16 metres of a tidally influenced main river without the prior written consent of the Environment Agency or Natural Resources Wales as appropriate.

(6) The undertaker must, unless otherwise authorised under the provisions of this Order or any environmental permit relating to the discharge of water in connection with the authorised development, take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

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(a) 1991 c.56. Section 106 was amended by sections 43(2) and 35(8)(a) and paragraph 1 of Schedule 2 to the Competition and Service (Utilities) Act 1992 (c.43) and sections 99(2), (4), (5)(a), (5)(b), (5)(c) and 36(2) of the Water Act 2003 (c.37) and section 32, Schedule 3, paragraph 16(1) of the Flood and Water Management Act 2010 c.29.

(7) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(a).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, Natural Resources Wales, an internal drainage board or a local authority; and
- (b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2016 have the same meaning as in those Regulations.

(9) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

### **Maintenance of drainage works**

**20.**—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(b).

### **Authority to survey and investigate the land**

**21.**—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes or pits in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out environmental, utility or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) The power conferred by sub-paragraph (1)(c) includes without prejudice to the generality of that sub-paragraph the power to take, and process, samples of or from any of the following found on, in or over the land—

- (a) water;
- (b) air;
- (c) soil or rock;
- (d) its flora;
- (e) bodily excretions, or dead bodies, of non-human creatures; or
- (f) any non-living thing present as a result of human action.

(3) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land.

(4) Any person entering land under this article on behalf of the undertaker—

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(a) S.I. 2016/1154.

(b) 1991 c.59.

- (a) must, if so required before or after entering the land, produce written evidence of their authority to do so; and
  - (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes or pits.
- (5) No trial holes or pits are to be made under this article—
- (a) in land located within the highway boundary without the consent of the highway authority; or
  - (b) in a private street without the consent of the street authority, which authority may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld or delayed.
- (6) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, as if it were a dispute under Part 1 (determination of question of disputed compensation) of the 1961 Act.
- (7) If either a highway authority or a street authority which receives an application for consent under paragraph (5) fails to notify the undertaker of its decision within 28 days of receiving the application for consent, that authority is deemed to have granted consent.
- (8) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

### **Protective work to buildings**

**22.**—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.

- (2) Protective works may be carried out—
- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
  - (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development first becomes operational.
- (3) For the purpose of determining how the powers under this article are to be exercised, the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage, and place on, leave on and remove from building any apparatus and equipment for use in connected with the survey.
- (4) For the purpose of carrying out protective works to a building under this article, the undertaker may (subject to paragraphs (5) and (6))—
- (a) enter the building and any land within its curtilage; and
  - (b) where the works cannot be carried out reasonably conveniently without entering land that is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).
- (5) Before exercising—
- (a) a power under paragraph (1) to carry out protective works to a building;
  - (b) a power under paragraph (3) to enter a building and land within its curtilage;
  - (c) a power under sub-paragraph (4)(a) to enter a building and land within its curtilage; or
  - (d) a power under sub-paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise the power and, in a case

falling within sub-paragraph (a), (c) or (d), specifying the protective works proposed to be carried out.

(6) Where a notice is served under sub-paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question of whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 48 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which powers under this article have been exercised for any loss or damage arising to them by reason of the exercise of the powers.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building first becomes operational it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act.

(10) Any compensation payable under paragraph (7) or (8) must be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies in respect of the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article “protective works”, in relation to a building, means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage that has been caused to the building by the carrying out, maintenance or use of the authorised development.

### **Removal of human remains**

**23.—**(1) Before the undertaker carries out any development or works which will or may disturb any human remains in the Order land it must remove those human remains from the Order land, or cause them to be removed, in accordance with the following provisions of this article.

(2) Before any such remains are removed from the Order land the undertaker must give notice of the intended removal, describing the Order land, the location where the remains were found and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of 2 successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near to the Order land and in the vicinity of the location where the remains were found.

(3) As soon as reasonably practicable after the first publication of a notice under paragraph (2) the undertaker must send a copy of the notice to the relevant planning authority.

(4) At any time within 56 days after the first publication of a notice under paragraph (2) any person who is a personal representative or relative of any deceased person whose remains are interred in the specific land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.



(5) Where a person has given notice under paragraph (4), and the remains in question can be identified, that person may cause such remains to be;

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (10).

(6) If the undertaker is not satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in summary manner by the county court, and the court may make an order specifying who is to remove the remains and as to the payment of the costs of the application.

(7) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(8) If—

- (a) within the period of 56 days referred to in paragraph (4) no notice under that paragraph has been given to the undertaker in respect of any remains in the Order land; or
- (b) such notice is given and no application is made under paragraph (6) within 56 days after the giving of the notice but the person who has received the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (6) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice under paragraph (4) relates cannot be identified,

subject to paragraph (9), the undertaker must remove the remains and cause them to be re-interred in such burial ground, or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose and, so far as possible, remains from individual graves must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(9) If the undertaker is satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(10) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (8) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (3).

(11) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(12) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(13) Section 25 (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) of the Burial Act 1857(a) is not to apply to a removal carried out in accordance with this article.

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(a) 1857 c.81.

## PART 5

### Powers of Acquisition

#### **Compulsory acquisition of land**

**24.**—(1) The undertaker may acquire compulsorily so much of the Order land as is required to carry out or to facilitate, or is incidental to, the authorised development.

(2) This article is subject to paragraph (2) of article 26 (compulsory acquisition of rights and restrictive covenants) and paragraph (8) of article 34 (temporary use of land for carrying out the authorised development).

#### **Time limit for exercise of authority to acquire land compulsorily**

**25.**—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act<sup>(a)</sup> as applied by article 30 (application of the 1981 Act).

(2) The authority conferred by article 34 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

#### **Compulsory acquisition of rights and restrictive covenants**

**26.**—(1) The undertaker may acquire such rights over the Order land or impose restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under article 24 (compulsory acquisition of land), by creating them as well as acquiring rights already in existence.

(2) Subject to articles 29 (private rights) and 36 (statutory undertakers) in the case of the Order land specified in column (1) of Schedule 8 (land in which only new rights etc., may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of new rights in the land or the imposition of restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 4(8) of Schedule 9 (modification of compensation and compulsory purchase enactments for creation of new rights)), where the undertaker acquires a right over land or the benefit of a restrictive covenant, the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 9 (modification of compensation and compulsory purchase enactments for creation of new rights) has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(5) In any case where the acquisition of new rights or the imposition of restrictive covenants under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

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(a) Section 4 was amended by sections 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016 (c.22).

## **Statutory authority to override easements and other rights**

**27.**—(1) The carrying out or use of the authorised development and the doing of anything else authorised by this Order is authorised for the purpose specified in section 158(2) of the 2008 Act (nuisance: statutory authority), despite it involving—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to use of land arising by virtue of contract.

(2) The undertaker must pay compensation to any person whose land is injuriously affected by—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to use of land arising by virtue of contract, caused by the carrying out or use of the authorised development and the operation of section 158 of the 2008 Act.

(3) The interests and rights to which this article applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(4) Subsection (2) of section 10 of the 1965 Act (further provision as to compensation for injurious affection) applies to paragraph (2) by virtue of section 152(5) of the 2008 Act (compensation in case where no right to claim in nuisance).

(5) Any rule or principle applied to the construction of section 10 of the 1965 Act must be applied to the construction of paragraph (2) with any necessary modifications

## **Compulsory acquisition of land: minerals**

**28.** Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981 are incorporated in this Order, subject to the following modifications—

- (a) paragraph 8(3) is not incorporated;
- (b) for “acquiring authority” substitute “undertaker”;
- (c) for “undertaking” substitute “authorised development”; and
- (d) for “compulsory purchase order” substitute “this Order”.

## **Private rights**

**29.**—(1) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition under article 24 (compulsory acquisition of land) cease to have effect in so far as their continuance would be inconsistent with the exercise of the powers under article 24 —

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act (a)

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 26 (compulsory acquisition of rights and restrictive covenants) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

- (a) as from the date of the acquisition of the right or the imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of lease of the land by agreement); or

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(a) Section 11(1) was amended by sections 186 to 188 of the Housing and Planning Act 2016 (c.22), Schedule 4 to the Acquisition of Land Act 1981 (c.67) a

- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 36 (statutory undertakers) applies.

(6) Paragraphs (1) to (3) have effect subject to—

(a) any notice given by the undertaker before—

- (i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;
- (ii) the undertaker's appropriation of the land,
- (iii) the undertaker's entry onto the land, or
- (iv) the undertaker taking temporary possession of the land,

that any or all of those paragraphs do not apply to any right specified in the notice; or

(b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(7) If an agreement referred to in sub-paragraph (6)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

the agreement is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(8) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

### **Application of the 1981 Act**

**30.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied, has effect with the following modifications.

(3) In section 1 (application of Act) for subsection (2) substitute—

“This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”

(4) Omit section 5 (earliest date for execution of declaration).

(5) Omit section 5A (time limit for general vesting declaration).

(6) In section 5B(1) (extension of time limit during challenge)—

- (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)”; and

- (b) for “the three year period mentioned in section 5A” substitute “the five year period mentioned in article 25 (time limit for exercise of authority to acquire land compulsorily) of the HyNet Carbon Dioxide Pipeline Order 202[•]”.
- (7) In section 6 (notices after execution of declaration) for subsection (1)(b) substitute—
  - “(1) (b) on every other person who has given information to the acquiring authority with respect to any of that land further to the invitation published and served under section 134 of the Planning Act 2008.”.
- (8) In section 7 (constructive notice to treat) in subsection (1)(a) omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).
- (10) References to the 1965 Act in the 1981 Act are to be constructed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act and as modified by article 32 (modification of Part 1 of the 1965 Act) to the compulsory acquisition of the land under this Order.

### **Acquisition of subsoil or airspace only**

**31.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil or airspace of the land referred to in paragraph (1) of article 24 (compulsory acquisition of land) and paragraph (1) of article 26 (compulsory acquisition of rights and restrictive covenants) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in the subsoil or airspace of land under paragraph (1), the undertaker is not to be required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 32 or paragraph 4(8) of Schedule 9 as the case may be) from applying where the undertaker acquires any part of, or rights in a cellar, vault, arch or other construction forming part of a house, building or manufactory.

(4) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A to the 1965 Act (as modified by article 32 (modification of Part 1 of the 1965 Act));
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

### **Modification of Part 1 of the 1965 Act**

**32.**—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge) for “section 23 (application to High Court in respect of compulsory purchase order) of the Acquisition of Land Act 1981, the three year period mentioned in section 4” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the 2008 Act, the 5 year period mentioned in article 25 (time limit for exercise of authority to acquire land compulsorily) of The HyNet Carbon Dioxide Pipeline Order 202[•]”.

(3) In section 11A (powers of entry: further notice of entry)—

- (a) in subsection (1)(a), after “land” insert “under that provision”;
- (b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (interests omitted from purchase), for “section 4 of this Act” substitute “article 25 (time limit for exercise of authority to acquire land compulsorily) of The HyNet Carbon Dioxide Pipeline Order 202[●]”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat) —

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 31(3) (acquisition of subsoil or airspace only) of The HyNet Carbon Dioxide Pipeline Order 202[●] which excludes the acquisition of subsoil only from this Schedule”; and

(b) at the end insert—

## “Part 4

### INTERPRETATION

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 22 (protective work to buildings), article 34 (temporary use of land for carrying out the authorised development) or article 35 (temporary use of land for maintaining the authorised development) of The HyNet Carbon Dioxide Pipeline Order 202[●].

#### **Rights under or over streets**

**33.**—(1) The undertaker may enter on and appropriate so much of the subsoil of or air-space over any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to

(a) any subway or underground building; or

(b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person’s interest in the land, and who suffers loss as a result, is entitled to compensation to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

#### **Temporary use of land for carrying out the authorised development**

**34.**—(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 25 (time limit for exercise of authority to acquire land compulsorily)—

(a) enter on and take temporary possession of—

(i) the land specified in columns (1) and (2) of Part 1 of Schedule 7 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule;

(ii) the land specified in columns (1) and (2) of Part 2 Schedule 7 (land of which only temporary possession for access may be taken) for the purposes of taking access to and from the authorised development only; and

- (iii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;
- (c) construct temporary works (including the provision of means of access), structures and buildings on that land;
- (d) use the land for the purposes of a working site with access to the working site in connection with the authorised development;
- (e) construct any permanent works specified in relation to that land in column (4) of Part 1 of Schedule 7 (land of which only temporary possession may be taken), or any other mitigation works in connection with the authorised development;
- (f) construct any works, or use the land, as specified in relation to that land in column 3 of Parts 1 and 2 of Schedule 7, or any mitigation works;
- (g) construct such works on that land as are mentioned in Part 1 of Schedule 1 (authorised development) and Part 2 of Schedule 1 (ancillary works); and
- (h) carry out mitigation works required pursuant to the requirements in Schedule 2.

(2) Not less than 3 months before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(iii).

(3) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i) and (ii), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Parts 1 and 2 of Schedule 7 (land of which only temporary possession may be taken); or
- (b) in the case of any land referred to in paragraph (1)(a)(iii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building, or structure removed under this article;
- (b) remove any drainage works installed by the undertaker under this article;
- (c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 3 (streets subject to streets works)
- (d) restore the land on which any permanent works (including ground strengthening works) have been constructed under paragraph (1); or
- (e) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) and (ii) except that the undertaker is not to be precluded from acquiring new rights over any part of that land under article 26 (compulsory acquisition of rights and restrictive covenants).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13(a) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) Paragraph (1) does not authorise the undertaker to take temporary possession of any land which the undertaker is not authorised to acquire under article 24 (compulsory acquisition of land) or article 26 (compulsory acquisition of rights and restrictive covenants).

### **Temporary use of land for maintaining the authorised development**

**35.**—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order land if such possession is reasonably required for the purpose of maintaining the authorised development; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other



enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article “the maintenance period”, in relation to any part of the authorised development means the period following completion of that part of the authorised development until the commencement of decommissioning.

(12) The undertaker is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of—

- (a) the authorised development or any of its parts;
- (b) the public; or
- (c) the surrounding environment,

and in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such period of notice as is reasonably practicable in the circumstances.

### **Statutory undertakers**

**36.**—(1) Subject to the provisions of Schedule 10 (protective provisions), the undertaker may acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the Order land and described in the book of reference.

(2) Subject to the provisions of Schedule 10 (protective provisions), the undertaker may extinguish the rights of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

### **Recovery of costs of new connections**

**37.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 36 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 36 (statutory undertakers), any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,  
is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the 2003 Act<sup>(a)</sup>; and

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(a) 2003 c.21.

“public utility undertaker” has the same meaning as in the 1980 Act.

## PART 6

### Miscellaneous and general

#### **Application of landlord and tenant law**

**38.**—(1) This article applies to any agreement entered into by the undertaker under article 7 (benefit of the Order) so far as it relates to the terms on which any land is subject to a lease granted by or under that agreement.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) No enactment or rule of law to which paragraph (2) applies is to apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

#### **Felling or lopping of trees and removal of hedgerows**

**39.**—(1) Subject to paragraph (3) the undertaker may fell, lop or prune any tree or shrub, or cut back its roots, within or overhanging land within the Order limits if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must—

- (a) do no unnecessary damage to any tree or shrub; and
- (b) pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits including those specified in Schedule 11.

In this article “hedgerow” has the same meaning as in the Hedgerows Regulations 1997(a).

#### **Trees subject to Tree Preservation Orders**

**40.**—(1) The undertaker may fell, lop or prune any part of any tree which is within, over or under land within the Order limits or cut back its roots, if it reasonably believes it to be necessary in order to prevent the tree—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
  - (b) from constituting a danger to persons using the authorised development.
- (2) In carrying out any activity authorised by paragraph (1)—
- (a) the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any damage arising from such activity; and
  - (b) the duty in section 206(1) of the 1990 Act (replacement of trees) must not apply.
- (3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.
- (4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined as if it were a dispute under Part 1 of the 1961 Act.

### **Crown rights**

**41.**—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

### **Protective provisions**

**42.** Schedule 10 (protective provisions) has effect.

### **Operational land for the purposes of the 1990 Act**

**43.** Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is not to be treated as operational land) of the 1990 Act.

### **Certification of plans, etc.**

**44.**—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the access and rights of way plans (consisting of a key plan and sheets 1 to 37 inclusive) (document number D.2.5)
- (b) the land plans (consisting of a key plan and sheets 1 to 37 inclusive) (document number D.2.2);
- (c) the crown land plans (consisting of a key plan and 8 sheets) (document number D.2.3);

- (d) the special category land plans (consisting of a key plan and 10 sheets) (document number D.2.6);
- (e) the works plans (consisting of a key plan and sheets 1 to 37 inclusive) (document number D.2.4);
- (f) the general arrangement plans comprising the Block Valve Stations Planning Arrangement, (document number D 2.9); Block Valve Stations Elevations (document number D.2.8); Above Ground Installation Planning Arrangement (document number D.2.12), and Above Ground Installation Elevations (document number D.2.11);
- (g) the book of reference (document number D.4.3);
- (h) the environmental statement (consisting of 4 volumes) (document numbers D.6.1 to D.6.4.19.1);
- (i) the outline construction environment management plan (document number D.6.5.2);
- (j) the outline landscape and ecology mitigation plan (document number D.6.5.10) (Annex D.6.5.10.1 Environmental Report – Appendix A – Landscape and Ecological Mitigation Plan);
- (k) the outline construction traffic management plan (document number D.6.5.3);
- (l) the outline surface water drainage strategy report and appendices (document number D.6.5.13);
- (m) the outline archaeological written scheme of investigation, (document number D.6.5.2);
- (n) outline operational and maintenance environment management plan (document number D.7.15); and

any other plans or documents referred to in this Order as requiring certification, for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

### **Service of notices**

**45.**—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (2) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

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(a) 1978 c. 30.

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

### **No double recovery**

**46.** Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

### **Requirements, appeals, etc.**

**47.—**(1) Sub-section (1) of section 78 (right to appeal against planning decisions and failure to take such decision) of the 1990 Act applies to the development consent granted by this Order and to the requirements except that it is modified so as to read for the purposes of this Order only as follows—

- (a) after “local planning authority” insert “or Secretary of State”
- (b) after subsection (b) insert the following—

“refuse or fails to determine an application for any consent, agreement or approval of that authority required by a requirement imposed on a grant of development consent or contained in a development consent order, or grant it subject to conditions; or”

- (c) after Sub-section (1), insert the following—

“(1A) Where the appeal under sub-section (1) relates to a decision by the Secretary of State, the appeal will be decided by a Secretary of State who would not be responsible for

determining an application for development consent with the subject matter of The HyNet Carbon Dioxide Pipeline Order 202[ ] section 103(1) of the 2008 Act applied.”

(2) Sections 78 (right to appeal against planning decisions and failure to take such decision) and 79 (determination of appeals) of the 1990 Act have effect in relation to any appeal under the terms of this article except that the Secretary of State in question is the Secretary of State who would be responsible for determining an application for development consent with the subject matter of this Order if section 103(1) (Secretary of State is to decide applications) of the 2008 Act applied

### **Arbitration**

**48.**—(1) Any difference under any provision of this Order, unless otherwise provided for, is be referred to and settled in arbitration in accordance with the rules at Schedule 12 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.

Signed by authority of the Secretary of State for Energy Security and Net Zero

Date

*Signed*  
Head of Energy Infrastructure Planning  
Department for Energy Security and Net Zero

## PART 1

## Authorised development

A nationally significant infrastructure project as defined in sections 14 and 21 of the 2008 Act, comprising:

**In the Borough of Cheshire West and Chester**

*Work No. 1:* Construction of an AGI at Ince within the location shown on Sheet 1 of the Works Plans, including—

- (a) a fenced compound area containing:
  - (i) security lighting;
  - (ii) electrical transformer;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) PIG launcher and receiver facilities;
  - (vii) connection points;
  - (viii) analyser house;
  - (ix) control mechanisms and electrical and instrumentation kiosk;
  - (x) hard standing;
  - (xi) above ground pipework, valves and instrumentation;
- (b) above ground control boxes;
- (c) below ground pipework;
- (d) below ground cables and cable ducts;
- (e) hard standing;
- (f) drainage works, including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

*Work No. 1A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 1 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 2:* The creation and use of a permanent vehicular access to the authorised development, from Elton Lane (private road), within the location shown on Sheet 1 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 3:* The creation and use of a permanent vehicular access to the authorised development, from the Pool Lane/Oil Sites Road roundabout via the unnamed road (private road and via the unnamed road (private road) from Ash Road, within the locations shown on Sheets 1 and 1a of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 3A:* The creation and use of a temporary vehicular access to the authorised development, from Work No. 3 on the unnamed road, within the location shown on Sheets 1 of the Works Plans, including improvement of road surfacing and provision of new hard surfacing.

*Work No. 3B:* The creation and use of a permanent vehicular access to the authorised development, from Ash Road within the location shown on Sheets 1 of the Works Plans, including improvement of road surfacing and provision of new hard surfacing.

*Work No. 4:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 994metres in length and with an external diameter of 20 inches (508 millimetres) between Work No. 1 and Work No. 5 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 1 and 2 of the Works Plans.

*Work No. 5:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 893metres in length and with an external diameter of 20 inches (508 millimetres) between Work No. 4 and Work No. 6 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 2 and 3 of the Works Plans.

*Work No. 5A:* Creation and use of a temporary construction access from Chester Services, within the location shown on Sheet 2 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.



*Work No. 5B:* Creation and use of a temporary construction access from A5117, within the location shown on Sheet 2 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No 5C:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheets 1 and 2 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 6:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.6km in length and with an external diameter of 20 inches (508 millimetres) between Work No. 5 and Work No. 7 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 2, 3 and 4 of the Works Plans.

*Work No. 6A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 2, 3 and 4 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 6B:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 2, 3 and 4 of the Work Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

*Work No. 6C:* Creation and use of a temporary construction access from Old Cryers Lane, within the location shown on Sheets 3 and 4 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway; and

- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 6D:* Creation and use of a temporary construction access from Cryers Lane, within the location shown on Sheets 3 and 4 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) improvement of road surfacing and provision of new hard surfacing; and
- (c) creation of visibility splays.

*Work No. 6E:* Creation and use of a temporary construction access from Cryers Lane, within the location shown on Sheets 3 and 4 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing;

*Work No. 7:* Construction of two underground Carbon Dioxide (CO<sub>2</sub>) pipelines with respective external diameters of 20 inches (508 millimetres) and 36 inches (914.4 millimetres), and respective approximate lengths of 266 metres and 251 metres, from Work No. 6 to Work No. 9 and from Work No.9 to Work No.11, including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 3 and 4 of the Works Plans.

*Work No. 8:* The creation and use of a temporary vehicular access to the authorised development, from A5117 within the location shown on Sheet 1 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing.

*Work No. 9:* Construction of an AGI at Stanlow within the location shown on Sheet 3 of the Works Plans, including—

- (a) a fenced compound area containing
  - (i) security lighting;
  - (ii) electrical transformer;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) PIG launcher and receiver facilities;
  - (vii) isolation valves;
  - (viii) above ground pipework, valves and instrumentation;
  - (ix) connection points;
  - (x) analyser house;
  - (xi) control mechanisms and electrical and instrumentation kiosk;
  - (xii) hard standing.
- (b) below ground pipework;

- (c) above ground control boxes;
- (d) below ground cables and cable ducts;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

*Work No. 9A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 3 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 10:* The creation and use of a permanent vehicular access to the authorised development, from Pool Lane within the location shown on Sheet 3 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 11:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.1km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 7 and Work No. 12 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 3, 4 and 5 of the Works Plans.

*Work No. 12:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 341 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 11 and Work No. 13 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and

- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 4 and 5 of the Works Plans.

*Work No. 12A:* Creation and use of a permanent access from Cryers Lane, within the location shown on Sheet 5 of the Work Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing;

*Work No. 13:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.3km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 12 and Work No. 14 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 5 and 6 of the Works Plans.

*Work No. 13A:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheets 5 and 6 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 14:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 419 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 13 and Work No. 15 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 5 and 6 of the Works Plans.

*Work No. 14A:* Creation and use of permanent access from Picton Lane, within the location shown on Sheets 5 and 6 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 15:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.5km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 14 and Work No. 16 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems.

As shown on Sheets 6 and 7 of the Works Plans.

*Work No. 15A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 6 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

*Work No. 15B:* Creation and use of a temporary construction access from Picton Lane, within the location shown on Sheet 6 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) improvement of road surfacing and provision of new hard surfacing; and
- (c) creation of visibility splays.

*Work No. 15C:* Creation and use of a permanent access from Picton Lane, within the location shown on Sheet 6 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 16:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 386metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 15 and Work No. 17 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;

- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 7 of the Works Plans.

*Work No. 16A:* Creation and use of a permanent access from Picton Lane, within the location shown on Sheet 7 of the Work Plans, including improvement of road surfacing and provision of new hard surfacing (excluding on the Bridleway).

*Work No. 16B:* Creation and use of a temporary construction access from Picton Lane, within the location shown on Sheet 7 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 17:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 807 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 16 and Work No. 18 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s);

as shown on sheets 7 and 8 of the Works Plans.

*Work No. 17A:* Creation and use of a permanent access from Wervin Road, within the location shown on Sheet 7 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 17B:* Creation and use of a permanent access from Wervin Road, within the location shown on Sheet 7 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 18:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 352 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 17 and Work No. 19 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;

- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 8 of the Works Plans.

*Work No. 18A:* Creation and use of a temporary construction access from Caughall Road, within the location shown on Sheet 8 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 19:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.4km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 18 and Work No. 22 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 8 and 9 of the Works Plans.

*Work No. 19A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 8 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

*Work No. 19B:* Creation and use of a temporary construction access from Croughton Road, within the location shown on Sheet 8 of the Works Plans, including—

- (a) creation of a junction with the public highway; and
- (b) construction of road surfacing and provision of new hard surfacing.

*Work No. 19C:* Creation and use of a temporary access from Chorlton Lane, within the location shown on Sheet 8 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 20:* Construction of a BVS at Rock Bank, at the location shown on Sheet 8 of the Works Plans, including—

- (a) a fenced compound area containing
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk;
  - (ix) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) hard standing;
- (e) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (f) landscaping.

*Work No. 20A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 8 of the Work Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 21:* The creation and use of a permanent vehicular access to the authorised development, from Chorlton Lane within the location shown on Sheet 8 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 22:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 291 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 19 and Work No. 23 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).



as shown on Sheet 9 of the Works Plans.

*Work No. 23:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 545 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 22 and Work No. 24 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 9 of the Works Plans.

*Work No. 23A:* Creation and use of a temporary construction access from Station Road, within the location shown on Sheet 9 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 23B:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 9 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 24:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 286 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 23 and Work No. 25 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 9 of the Works Plans.

*Work No. 24A:* Creation and use of a temporary construction access from Station Road, within the location shown on Sheets 9 and 10 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 25:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.9km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 24 and Work No. 28 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 9, 10 and 11 of the Works Plans.

*Work No. 25A:* Creation and use of a permanent access from Station Road, within the location shown on Sheet 10 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 26:* Construction of a BVS at Mollington, at the location shown on Sheet 10 and 11 of the Works Plans, including—

- (a) a fenced compound area containing
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk;
  - (ix) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) hard standing;
- (e) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (f) landscaping.

*Work No. 26A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 10 and 11 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 27:* The creation and use of a permanent vehicular access to the authorised development, from Overwood Lane within the location shown on Sheet 11 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;

- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 28:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 2.4km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 25 and Work No. 29 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 10, 11 and 12 of the Works Plans.

*Work No. 28A:* Creation and use of a temporary construction access from Overwood Lane, within the location shown on Sheets 10 and 11 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 28B:* Creation and use of a permanent access from the A540, within the location shown on Sheet 11 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 28C:* Creation and use of a permanent access from Hermitage Road, within the location shown on Sheet 12 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

### **In the County of Flintshire**

*Work No. 29:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 625 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 28 and Work No. 30 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 12 of the Works Plans.

*Work No. 29A:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 12 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 30:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.2km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 28 and Work No. 31 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 12 and 13 of the Works Plans.

*Work No. 30A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 12 and 13 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

*Work No. 30B:* Creation and use of a permanent access from the A548, within the location shown on Sheet 12 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 30C:* Creation and use of a permanent access from the A548, within the location shown on Sheets 12 and 13 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of bridge and road surfacing and provision of new hard surfacing.

*Work No. 30D:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 13 and 14 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;

- (e) plant storage;
- (f) a fabrication area;
- (g) waste processing and management areas; and
- (h) fencing and gating.

*Work No. 30E:* Creation and use of a temporary construction access from the A548, within the location shown on Sheets 13 and 14 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) improvement of road surfacing and provision of new hard surfacing; and
- (c) creation of visibility splays.

*Work No. 31:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 873 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 30 and Work No. 32 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts, cathodic protection cabinet and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 13 and 14 of the Works Plans.

*Work No. 31A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 14 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

*Work No. 31B:* Creation and use of a permanent access from the B5129, within the location shown on Sheet 14 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) improvement of road surfacing and provision of new hard surfacing; and
- (c) creation of visibility splays.

*Work No. 31C:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 14 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 32:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 595 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 31 and Work No. 33 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 14 and 15 of the Works Plans.

*Work No. 32A:* Creation and use of a temporary construction access from the B5129, within the location shown on Sheets 14 and 15 of the Work Plans, including improvement of road surfacing and provision of new hard surfacing.

*Work No. 33:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 2.5km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 32 and Work No. 34 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 14, 15 and 16 of the Works Plans.

*Work No. 33A:* Creation and use of a permanent access from Chester Road East, within the location shown on Sheet 15 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 33B:* Creation and use of a permanent access from Moor Lane, within the location shown on Sheet 15 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 33C:* Creation and use of a permanent access from Chester Road East, within the location shown on Sheets 15 and 16 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 34:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 524 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 33 and Work No. 35 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works including removal and reinstatement of the bund along Chester Road; and
- (f) works including diversion or alteration of existing watercourse, creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 16 of the Works Plans.

*Work No. 34A:* Creation and use of a temporary construction access from Glendale Avenue, within the location shown on Sheet 16 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway;
- (b) provision of temporary public right of way diversion, including fencing and signage; and
- (c) improvement of road surfacing and provision of new hard surfacing.

*Work No. 35:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.9km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 34 and Work No. 38 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 16 and 17 of the Works Plans.

*Work No. 35A:* Creation and use of a permanent access from Gladstone Way, within the location shown on Sheet 16 and 17 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 36 –* Construction of a BVS at Aston Hill, at the location shown on Sheet 16 and 17 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) block valve;

- (iii) parking;
- (iv) cathodic protection measures;
- (v) CCTV cameras, intrusion detection systems and access control systems;
- (vi) above ground pipework, valves and instrumentation;
- (vii) connection points;
- (viii) control mechanisms and electrical and instrumentation kiosk;
- (ix) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) hard standing;
- (e) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (f) landscaping.

*Work No. 36A:* The creation and use of a temporary logistics and construction compound for use during the construction of the authorised development, within the location shown on Sheet 17 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 37:* The creation and use of a permanent vehicular access to the authorised development, from Lower Aston Hall Lane within the location shown on Sheet 17 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 38:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 377 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 35 and Work No. 39 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 17 of the Works Plans.

*Work No. 38A:* Creation and use of a temporary construction access from Lower Aston Hall Lane, within the location shown on Sheet 17 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.



*Work No. 38B:* Creation and use of a permanent construction access from Lower Aston Hall Lane, within the location shown on Sheet 17 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 39:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 402 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 38 and Work No. 40 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 17 of the Works Plans.

*Work No. 39A:* Creation and use of a temporary construction access from Old Aston Hill, within the location shown on Sheet 17 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing

*Work No. 39B:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 17 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 40:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 561 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 39 and Work No. 41 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 17 and 18 of the Works Plans.

*Work No. 40A:* Creation and use of a temporary construction access from Old Aston Hill, within the location shown on Sheets 17 and 18 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 40B:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheets 17 and 18 the Work Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 40C:* Creation and use of a permanent access from Church Lane, within the location shown on Sheet 17 of the Works Plans, including—

- (a) creation of new bellmouth junction; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 41:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.1km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 40 and Work No. 42 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 17 and 18 of the Works Plans.

*Work No. 41A:* Number not used

*Work No. 41B:* Creation and use of a temporary construction access from the B5125, within the location shown on Sheet 18 of the Works Plans, including—

- (a) construction of a temporary construction access and working area;
- (b) improvement of an existing junction with the public highway;
- (c) improvement of road surfacing and provision of new hard surfacing; and
- (d) creation of visibility splays.

*Work No. 41C:* Creation and use of a permanent access from the B5125, within the location shown on Sheet 18 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 41D:* Number not used

*Work No. 42:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 1.8km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 41 and Work No. 43 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;

- (e) landscaping, ecological and environmental works;
- (f) alteration or removal of existing structures; and
- (g) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 18 and 19 of the Works Plans.

*Work No. 42A:* Creation and use of a permanent access from Green Lane, within the location shown on Sheet 18 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 43:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 611 metres in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 42 and Work No. 44 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheet 19 of the Works Plans.

*Work No. 43A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 19 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 43B:* Creation and use of a permanent access from Pinfold Lane, within the location shown on Sheet 19 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 43C:* Creation and use of a temporary construction access from unnamed road, within the location shown on Sheet 19 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 43D:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 19 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 44:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 2.5km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 43 and Work No. 47 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 19 and 20 of the Works Plans.

*Work No. 44A:* The creation and use of a permanent access to the authorised development including creation and/or improvement of road surfacing and provision of new hard surfacing; and a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 19 and 20 of the Work Plans, including as temporary works—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 44B:* Creation and use of a temporary construction access from the B5125, within the location shown on Sheet 20 of the Works Plans, including—

- (a) creation of a new bellmouth junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 44C:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 20 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) pipe equipment and fittings storage;
- (e) plant storage;
- (f) a fabrication area;
- (g) a plant wheel wash area;
- (h) waste processing and management areas; and
- (i) fencing and gating.

*Work No. 45:* Construction of an AGI at Northop Hall, within the location shown on Sheet 20 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) electrical transformer;

- (iii) parking;
- (iv) CCTV cameras, intrusion detection systems and access control systems;
- (v) PIG launcher and receiver facilities;
- (vi) isolation valves;
- (vii) connection points;
- (viii) analyser house;
- (ix) control mechanisms and electrical and instrumentation kiosk;
- (x) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) below ground cables and cable ducts;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

*Work No 45A:* The creation and use of a temporary working area for the use during the construction of the authorised development, within the location shown on Sheet 20 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 45B:* The creation and use of a permanent vehicular access to the authorised development, from B5125 within the location shown on Sheet 20 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 46:* The creation and use of a temporary vehicular construction access to the authorised development, from B5125 within the location shown on Sheet 20 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing; and
- (b) creation of a new bellmouth junction and visibility splays.

*Work No. 47:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 2.4km in length and with an external diameter of 36 inches (914.4 millimetres) between Work No. 44 and Work No. 50 including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works; and
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 20, 21 and 22 of the Works Plans.

*Work No. 47A:* Creation and use of a temporary construction access from Starkey Lane, within the location shown on Sheet 21 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and

- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 47B:* Creation and use of a temporary construction access from Starkey Lane, within the location shown on Sheet 21 and 22 of the Works Plans, including—

- (a) improvement of an existing junction with the public highway; and
- (b) improvement of road surfacing and provision of new hard surfacing.

*Work No. 48:* Construction of an AGI at Flint, within the location shown on Sheet 22 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) electrical transformer;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) PIG launcher and receiver facilities;
  - (vii) isolation valves;
  - (viii) connection points;
  - (ix) analyser house;
  - (x) control mechanisms and electrical and instrumentation kiosk
  - (xi) hard standing;
- (b) below ground pipework;
- (c) above ground control boxes;
- (d) below ground cables and cable ducts;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

*Work No. 48A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 22 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 49:* The creation and use of a permanent vehicular access to the authorised development, from Allt-Goch Lane (east) within the location shown on Sheet 22 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 50:* Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 422 metres in length and with an external diameter of 24 inches (609.6 millimetres) between Work No. 47 and the existing pipeline including—

- (a) construction and installation of the pipeline by trenched and untrenched methods, including trenchless installation technique pit works, the creation of reception shafts, and launch shafts, and installation of concrete-lined sleeve tunnels;
- (b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
- (c) installation of underground telecommunications cable;
- (d) construction of a haul road, temporary construction accesses and working areas and laydown area;
- (e) landscaping, ecological and environmental works;
- (f) works to connect to the existing pipeline and
- (g) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s).

as shown on Sheets 22 and 23 of the Works Plans.

*Work No. 51* – Construction of a BVS at Cornist Lane, at the location shown on Sheet 25 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk;
  - (ix) hard standing;
- (b) below ground pipework;
- (c) works to connect to the existing pipeline;
- (d) above ground control boxes;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

*Work No. 51A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 25 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 51B:* The creation and use of a temporary working area for the use during the construction of Work No. 51, within the location shown on Sheets 24 and 25 of the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 52:* The creation and use of a permanent vehicular access to the authorised development, from Cornist Lane within the location shown on Sheet 25 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 53:* – Construction of a BVS at Pentre Halkyn at the location shown on Sheet 27 and 28 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;
  - (ii) block valve;
  - (iii) parking;
  - (iv) cathodic protection measures;
  - (v) CCTV cameras, intrusion detection systems and access control systems;
  - (vi) above ground pipework, valves and instrumentation;
  - (vii) connection points;
  - (viii) control mechanisms and electrical and instrumentation kiosk;
  - (ix) hard standing;
- (b) below ground pipework;
- (c) works to connect to the existing pipeline;
- (d) above ground control boxes;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

*Work No. 53A:* The creation and use of a temporary logistics and construction compound for use during the construction of the authorised development, within the location shown on Sheets 27 and 28 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) power supplies and temporary lighting;
- (d) plant storage;
- (e) waste processing and management areas; and
- (f) fencing and gating.

*Work No. 53B:* The creation and use of a temporary working area for the use during the construction of Work No. 53, within the location shown on Sheets 27 and 28 the Work Plans including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 54:* The creation and use of a permanent vehicular access to the authorised development, from B5121 within the location shown on Sheet 27 and 28 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No. 55:* Construction of a BVS at Babell, at the location shown on Sheet 29 of the Works Plans, including—

- (a) a fenced compound area containing;
  - (i) security lighting;



- (ii) block valve;
- (iii) parking;
- (iv) cathodic protection measures;
- (v) CCTV cameras, intrusion detection systems and access control systems;
- (vi) above ground pipework, valves and instrumentation;
- (vii) connection points;
- (viii) control mechanisms and electrical and instrumentation kiosk;
- (ix) hard standing;
- (b) below ground pipework;
- (c) works to connect to the existing pipeline;
- (d) above ground control boxes;
- (e) hard standing;
- (f) drainage works including creation of connections to existing drainage and creation of new sustainable drainage systems including attenuation pond(s); and
- (g) landscaping.

*Work No. 55A:* The creation and use of a temporary logistics and construction compound for the use during the construction of the authorised development, within the location shown on Sheet 29 and 30 of the Works Plans, including—

- (a) office, welfare and security facilities;
- (b) a parking area;
- (c) plant and materials storage;
- (d) waste processing and management areas; and
- (e) fencing and gating.

*Work No. 55B:* The creation and use of a temporary working area for the use during the construction of Work No.55, within the location shown on Sheets 29 and 30 the Works Plans, including construction of a haul road, temporary construction accesses and working areas and laydown areas.

*Work No. 56:* The creation and use of a permanent vehicular access to the authorised development, from Racecourse Lane within the location shown on Sheet 29 and 30 of the Works Plans, including—

- (a) improvement of road surfacing and provision of new hard surfacing;
- (b) creation of a new bellmouth junction and visibility splays; and
- (c) installation of utilities.

*Work No 57:* the provision of environmental and ecological mitigation for the authorised development including landscaping, woodland and hedgerow planting, scrub planting, riparian planting, habitat creation, fencing and gating, comprising:

### **In the Borough of Cheshire West and Chester**

*Work No. 57A:* Creation of environmental mitigation, east of Cryers Lane, at the location shown on Sheets 2, 3 and 4 of the Works Plans, including woodland planting.

*Work No. 57B:* Creation of environmental mitigation south-west of Stanlow AGI, at the location shown on Sheets 3 and 4 of the Works Plans, including woodland planting.

*Work No. 57C:* Creation of environmental mitigation north of the M56 at the location shown on Sheets 4 and 5 of the Works Plans, including woodland planting.

*Work No. 57D:* Creation of environmental mitigation south of the M56 at the location shown on Sheets 4 and 5 of the Works Plans, including woodland planting.

*Work No. 57E:* Creation of environmental mitigation east of River Gowy/south of M56 at the location shown on Sheets 5 and 6 of the Works Plans, including woodland planting.

*Work No. 57F:* Creation of environmental mitigation west of River Gowy/south of M56 at the location shown on Sheets 5 and 6 of the Works Plans, including –

- (a) woodland planting to create new woodland block west of River Gowy; and
- (b) riparian planting along western bank of River Gowy and connected ditch.

*Work No. 57G:* Creation of environmental mitigation north of the Shropshire Union Canal / west of Liverpool Road at the location shown on Sheet 9 of the Works Plans, including woodland planting.

### **In the County of Flintshire**

*Work No. 57H:* Creation of environmental mitigation east of the A494 at the location shown on Sheet 17 of the Works Plans, including—

- (a) woodland planting; and
- (b) scrub planting over the pipeline.

*Work No. 57I:* Creation of environmental mitigation west of Aston Hill/east of Shotton Lane at the location shown on Sheet 17 and 18 of the Works Plans, including—

- (a) woodland planting; and
- (b) scrub planting over the easement, where the pipeline is laid, and over known utilities locations.

*Work No 57J:* Creation of environmental mitigation on land east of Alltami Brook at the location shown on Sheet 19 of the Works Plans, including—

- (a) creation of new woodland block; and
- (b) scrub planting over the pipeline.

*Work No 57K:* Creation of environmental mitigation at Alltami Brook at the location shown on Sheet 19 of the Works Plans, including—

- (a) woodland planting either side of the pipeline;
- (b) scrub planting over the pipeline; and
- (c) riparian planting along the edge of the brook.

*Work No 57L:* Creation of environmental mitigation east of Brookside at the location shown on Sheets 19 and 20 of the Works Plans, including—

- (a) woodland planting;
- (b) scrub planting over known utilities' locations; and
- (c) riparian planting buffer along the southern edge of the order limits adjacent to ditch, should trees along the boundary be removed. Else, continuation of woodland planting only.

*Work No 57M:* Creation of environmental mitigation west of Work No.44 at the location shown on Sheet 20 of the Works Plans, including –

- (a) woodland planting; and
- (b) scrub planting over the pipeline.

*Work No 57N:* Creation of environmental mitigation west of Work No. 57M at the location shown on Sheet 20 of the Works Plans, including –

- (a) woodland planting; and
- (b) scrub planting over the pipeline.

And in connection with Work Nos. 1 to 57N, and to the extent that they do not otherwise form part of any such work, development comprising such other works as may be necessary or expedient for

the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) temporary works for the benefit or protection of land, watercourses or structures affected by the authorised development;
- (b) site clearance (including fencing and demolition of existing structures);
- (c) earthworks (including soil stripping and storage, site levelling and alteration of ground levels), and remediation of contamination if present;
- (d) works to alter the position of apparatus at or below ground level including mains, sewers, drains and cables and also including below ground structures associated with that apparatus;
- (e) watercourse and other temporary crossings;
- (f) means of access and other vehicular and/or pedestrian means of access, including creation of new tracks and footpaths, and/or widening, upgrades, alterations and improvements of existing roads, tracks and footpaths/alteration of layout of streets to form temporary and permanent accesses, altering the level of any kerb, footway or verge within a street and surface treatments; diversions during construction of existing access routes and subsequent reinstatement of existing routes;
- (g) surface water management systems, temporary drainage during installations;
- (h) landscaping works/landscaping, planting, vegetation removal, trimming and lopping of trees, tree planting and erection of permanent means of enclosure and boundary facilities including fences and gates, alteration of drains and ditches, bunds, embankments, swales, landscaping, fencing and boundary treatments;
- (i) manholes, marker posts, underground markers, tiles and tape;
- (j) works for the provision or relocation of apparatus including cabling, water and electricity supply works, foul drainage provision;
- (k) creation, use and reinstatement of crane pads; and
- (l) works of restoration.

## PART 2

### Ancillary works

Works within the Order limits which fall within the scope of the work assessed by the environmental statement comprising works for the benefit or protection of land affected by the authorised development.

## SCHEDULE 2

Article 3

### Requirements

## PART 1

### Requirements

#### Interpretation

1. In this Schedule—

“AOD” means above Ordnance Datum;

“commissioning” means the process during which plant components and systems forming part of the authorised development, having been constructed or modified, are made operational and

are tested and verified to be in accordance with design assumptions and to have met the appropriate safety criteria;

“contaminated land” has the same meaning as that given in section 78A of the Environmental Protection Act 1990(a);

“CTMP” means construction traffic management plan;

“DEMP” means decommissioning environmental management plan;

“discharging authority” means any body responsible for giving any consent, agreement or approval required by a requirement included in Part 1 of this Schedule, or for giving any consent, agreement or approval further to any document referred to in any such requirement;

“LEMP” means the landscape and ecology management plan; and

“requirement consultee” means any body named in a requirement as a body to be consulted by the discharging authority in discharging that requirement.

“stage” means the works and ancillary works, or parts thereof, to be carried out together as a phase of, or in a defined order within, the construction of the authorised development.

### **Time limits**

**2.**—(1) The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force.

(2) Notice of commencement of the authorised development must be given to the relevant planning authorities no later than 14 days before the date on which the authorised development is intended to be commenced.

### **Stages of authorised development**

**3.**—(1) (a) The authorised development may not commence until a written scheme setting out all stages of the authorised development and including a plan indicating when each stage will be implemented, has been submitted to each relevant planning authority.

(b) The written scheme submitted under this sub-paragraph may be amended by the undertaker. Where any amended written scheme is submitted under this sub-paragraph, any prior submitted written scheme will be held to be superseded.

(c) Any amended written scheme must be submitted to each relevant planning authority before any amendment may take effect for the purpose of sub-paragraph (4).

(2) The description of each stage in the written scheme to be submitted under sub-paragraph (1) must include the Work No(s) of the works within that stage.

(3) More than one stage may be planned to be undertaken concurrently.

(4) The authorised development must be implemented in accordance with the written scheme submitted under sub-paragraph (1).

### **Scheme design**

**4.**—(1) The authorised development must be carried out in general accordance with the general arrangement plans. The authorised development will not be in general accordance with the general arrangement plans if any departure from the general arrangement plans would give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(2) The authorised development must be designed in accordance with the parameters specified in Table 1 below and the works plans and implemented in accordance with approved plans and any other approvals given by the relevant planning authority pursuant to these requirements.

### **Table 1**

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(a) 1990 c.43.

<i>Work Type</i>	<i>Parameter</i>	<i>Part(s) of the authorised development</i>	<i>Maximum value(s) and unit</i>
AGI	Maximum fenced area of Ince AGI	Work No. 1	1,800m <sup>2</sup>
AGI	Maximum fenced area of Stanlow AGI	Work No. 9	2,656m <sup>2</sup>
AGI	Maximum fenced area of Northop Hall AGI	Work No.45	1,155m <sup>2</sup>
AGI	Maximum fenced area of Flint AGI	Work No.48	5,600m <sup>2</sup>
AGI	Maximum height of buildings and structures	Work Nos. 1, 9, 45 and 48	5m from ground level
AGI	Maximum width of new permanent accesses	Work Nos. 2, 8, 10, 46 and 49	6m
AGI	Maximum height of fencing and gating	Work No. 1, 9, 45, 48	3m from ground level
BVS	Maximum fenced area of BVS	Work No. 20, 26, 36, 51, 53, 55	1,050m <sup>2</sup>
BVS	Maximum height of buildings and structures	Work Nos. 20, 26, 36, 51, 53 and 55	5m from ground level
BVS	Maximum height of fencing and gating	Work Nos. 20, 26, 36, 51, 53 and 55	3m from ground level
BVS	Maximum width of new permanent accesses	Work No. 21, 27, 37, 52, 54 and 56	3m
Construction compound	Maximum height of fencing and gating	Work No. 6B, 15A, 19A, 30A, 30D, 31A, 41A and 44C	2.4m from ground level
Construction Compound	Maximum fenced area of Stanlow Compound	Work No. 6B	66,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Picton Lane Compound	Work No. 15A	32,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Chorlton Lane Compound	Work No. 19A	41,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Wood Farm Compound	Work No. 30D	90,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Sealand Road Compound	Work No. 30A	48,000m <sup>2</sup>
Construction Compound	Maximum fenced area of River Dee Compound	Work No. 31A	43,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Shotton Lane Compound	Work No. 41A	37,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Northop Hall Compound	Work No. 44C	35,000m <sup>2</sup>

(3) The buildings and structures identified in Table 1 must only be constructed within the area for the Work No. of which they form part as shown in the works plans.

(4) Each of Work Nos. 1, 9, 20, 26, 36, 45, 48, 51, 53 and 55 may not be commenced until, for that Work No. the following details have been submitted to and approved by the relevant planning authority:

- (a) the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings and structures;
- (b) details of permanent accesses to the public highway;
- (c) details of any external lighting; and
- (d) details of the noise ratings of any external machinery or potentially noisy installations (such as fans).

(5) No part of Work No. 43 within the course of the Alltami Brook watercourse may be commenced until details of the design and construction methodology of any works within that watercourse have been submitted to and approved by the relevant planning authority following consultation with Natural Resources Wales.

(6) The details submitted under sub-paragraph (5) must be accompanied by a geomorphological assessment of the area of the Alltami Brook which will be affected by the authorised development, and a report setting out how that assessment has been taken into account in preparing the detailed design and specifying:

- (a) how Work No. 43 has been micro-sited to avoid the most sensitive areas of the Alltami Brook as identified in the geomorphological assessment;
- (b) the width of any strip of permanent bedrock removal within the Alltami Brook, which may not exceed a maximum of 4m wide;
- (c) the temporary working width in the riparian habitat related to the Alltami Brook, which may not exceed 16m; and
- (d) the design of the reinstatement of the Alltami Brook.

(7) The works listed in sub-paragraphs (4) and (5) must be implemented in accordance with the details approved under this paragraph.

### **Construction environmental management plan**

**5.**—(1) No stage of the authorised development can commence until a CEMP which includes that stage has been submitted to and approved by the relevant planning authority.

(2) The CEMP must be in accordance with the outline construction environment management plan and include management plans, working methods and mitigation measures including—

- (a) details of lighting during construction;
- (b) noise and vibration management plan;
- (c) dust management plan;
- (d) material management plan;
- (e) soil management plan;
- (f) peat management plan;
- (g) waste management plan;
- (h) groundwater management and monitoring plan;
- (i) bio-security management plan;
- (j) surface water management and monitoring plan;
- (k) dewatering management plan;
- (l) stakeholder communications plan; and
- (m) public rights of way management plan.

(3) Each stage of the authorised development must be implemented in accordance with the approved CEMP for that stage.

### **Construction traffic**

6.—(1) Save in respect of matters approved in accordance with articles 13 (temporary restriction of public rights of way) and 14 (temporary restriction of use of streets) no stage of the authorised development must commence until a CTMP for that stage, in accordance with the outline construction traffic management plan, has been submitted to and approved by the relevant planning authority following consultation with the relevant highway authority.

(2) The CTMP for each stage must include a construction logistics plan to manage delivery of goods and materials.

(3) The CTMP for each stage must include a construction worker travel plan in accordance with the interim worker travel plan and include measures to be taken to promote sustainable travel options and minimise use of private vehicles.

(4) Each stage of the authorised development must be implemented in accordance with the approved CTMP for that stage.

### **Highway accesses**

7.—(1) Construction of any new permanent or temporary means of access to a highway, or alteration, or use of an existing means of access to a highway, must not commence until an access plan for that access has been submitted to and approved by the relevant highway authority.

(2) The access plan must include details of the siting, design, layout, visibility splays, access management measures and a maintenance programme relevant to the access it relates to.

(3) The relevant highway authority must be consulted on the access plan before it is submitted for approval.

(4) The highway accesses (including visibility splays) must be implemented in accordance with the approved details.

### **Surface water drainage**

8.—(1) No development of Work Nos. 1, 9, 20, 26, 36, 45, 48, 51, 53 and 55 may commence until, for that Work No, a surface water drainage plan for permanent works relevant to that stage, in accordance with the relevant part of the outline surface water drainage strategy has been submitted to and approved by the relevant planning authority or, where applicable, the Environment Agency and/or Natural Resources Wales and/or the Lead Local Flood Authority.

(2) The surface water drainage system for each stage must be implemented in accordance with the approved details

(3) No discharge of water under article 19 (discharge of water) must be made until details of the location and rate of discharge have been submitted to the relevant planning authority or, where applicable, the Environment Agency and/or Natural Resources Wales and/or the Lead Local Flood Authority.

### **Contaminated land and groundwater**

#### **9.**

#### *Part A - Stanlow*

(1) No intrusive works or any works which are likely to cause significant harm to persons or pollution of controlled waters or the environment, other than those necessary to undertake ground investigation for the purposes of identifying any contamination which may be present, can be carried out within plots 3-11, 3-12, 3-13, 3-14 and 3-15, unless and until either sub-paragraph (2) or sub-paragraph (3) has been complied with.

(2) The Environment Agency has confirmed in writing that any contamination of the plots listed in sub-paragraph (1) has been remediated to a standard which renders those plots fit for the use consented under this Order.

(3) The undertaker must:

- (a) carry out further ground investigations within plots 3-11, 3-12, 3-13, and within the highway verges within plots 3-14 and 3-15, to identify any contamination present. The investigations must include testing for Per- and polyfluoroalkyl substances.
- (b) Where no contamination is identified under paragraph (a), the undertaker must submit a report of the investigations undertaken and the results thereof to the relevant planning authority; no works set out in sub-paragraph (1) may be undertaken unless and until the relevant planning authority, following consultation with the Environment Agency, has approved the report submitted.
- (c) Where contamination is identified under paragraph (a), a written risk assessment must be completed by the undertaker in order to assess the nature and extent of any contamination. Where having regard to that risk assessment;
  - (i) the undertaker considers that remediation is required, a detailed remediation scheme must be prepared and submitted by the undertaker for the approval of the relevant planning authority in consultation with the Environment Agency; or
  - (ii) the undertaker considers that remediation is not required, the risk assessment must be submitted to the relevant planning authority; and
  - (iii) remediation is determined by the relevant planning authority, following consultation with the Environment Agency, not to be required, the relevant planning authority must approve the risk assessment and Work Nos. 5 and 7 may commence; or
  - (iv) remediation is determined by the relevant planning authority, following consultation with the Environment Agency, to be required, a detailed remediation scheme must be prepared and submitted by the undertaker for the approval of the relevant planning authority in consultation with the Environment Agency.
- (d) Where a remediation scheme is required under paragraph (c), the remediation must be implemented by the undertaker in accordance with the approved detailed remediation scheme, and a verification report following completion of those remediation works must be submitted to the relevant planning authority for approval before Work Nos 5 and 7 may be commenced. Such approval shall not be unreasonably withheld or delayed.

*Part B— other sites identified as requiring further investigation*

(4) No intrusive works or any works which are likely to cause significant harm to persons or pollution of controlled waters or the environment, other than those necessary to undertake ground investigation for the purposes of identifying any contamination which may be present, can be carried out within plots 1-25, 4-12, 4-20, 8-10 and 8-12 unless and until sub-paragraph (5) has been complied with.

(5) The undertaker must:

- (a) carry out further ground investigations within plots 1-25 (adjacent to Ince railway), plot 4-12 (in the former gateway), plots 8-10 and 8-12, and groundwater testing in plot 4-20 (to the north of the M56 motorway)] to identify any contamination present.
- (b) Where no contamination is identified under paragraph (a), the undertaker must submit a report of the investigations undertaken and the results thereof to the relevant planning authority; no works in the plots set out in sub-paragraph (4) may be undertaken unless and until the relevant planning authority, following consultation with the Environment Agency, has approved the report submitted.
- (c) Where contamination is identified under paragraph (a), a written risk assessment must be completed by the undertaker in order to assess the nature and extent of any contamination. Where having regard to that risk assessment;



- (i) the undertaker considers that remediation is required, a detailed remediation scheme must be prepared and submitted by the undertaker for the approval of the relevant planning authority in consultation with the Environment Agency; or
  - (ii) the undertaker considers that remediation is not required, the risk assessment must be submitted to the relevant planning authority; and
  - (iii) remediation is determined by the relevant planning authority, following consultation with the Environment Agency, not to be required, the relevant planning authority must approve the risk assessment and Works in the plots listed in sub-paragraph (4) may commence; or
  - (iv) remediation is determined by the relevant planning authority, following consultation with the Environment Agency, to be required, a detailed remediation scheme must be prepared and submitted by the undertaker for the approval of the relevant planning authority in consultation with the Environment Agency.
- (d) Where a remediation scheme is required under paragraph (c), the remediation must be implemented by the undertaker in accordance with the approved detailed remediation scheme under sub-paragraph (5), and a verification report following completion of those remediation works must be submitted to the relevant planning authority for approval. Such approval shall not be unreasonably withheld or delayed.

(6) Approval of the requirements of sub-paragraphs (4) and (5) may be sought and granted in stages provided that plots 1-19; 1-20; 1-21; 1-22; 1-23; 1-24 and 1-25 must all be contained within a single stage, plots 3-18; 4-19; 4-20; 5-01; 5-02; 5-03; 5-04 and 5-05 must all be contained within a single stage and plots 3-16; 4-11; 4-12; 4-13; 4-14; 4-15; 4-16; 4-17; and 4-18; must all be contained within a single stage. Nothing in this part of this requirement will prevent the commencement of works in any stage which does not contain any of the plots listed in sub-paragraph (4).

*Part C – unexpected contamination*

(7) In the event that contamination is found at any time when carrying out the authorised development it must be reported in writing to the relevant planning authority as soon as reasonably practicable.

(8) Where contamination has been reported to the relevant planning authority in accordance with sub-paragraph (7), an investigation and risk assessment must be completed by the undertaker in accordance with a contamination scheme to assess the nature and extent of any contamination on the part of the Order limits within which works are being carried out, whether or not that contamination originates on that part of the Order limits; and—

- (a) the contents of that contamination scheme are subject to the approval of the relevant planning authority; and
- (b) that investigation and risk assessment must be undertaken by the undertaker within timescales agreed with the relevant planning authority and in accordance with the approved contamination scheme, and a written report of the findings must be submitted to the relevant planning authority.

(9) Where remediation is determined by the relevant planning authority to be required having had regard to the results of an investigation and risk assessment carried out under sub-paragraph (8), a detailed remediation scheme must be prepared and submitted by the undertaker for the approval of the relevant planning authority.

(10) Unless otherwise agreed by the relevant planning authority, no intrusive works or other works which would disturb the contaminated land or groundwater can be carried out in the part of the Order limits in which the contamination is identified under sub-paragraph (7) until the investigation and risk assessment in accordance with sub-paragraph (8), and if required, a remediation scheme in accordance with sub-paragraph (9) has been submitted to and approved by the relevant planning authority.

(11) The remediation must be implemented by the undertaker in accordance with the approved detailed remediation scheme under sub-paragraph (9), and a verification report following

completion of those remediation works must be submitted to the relevant planning authority for approval. Such approval shall not be unreasonably withheld or delayed.

### **Archaeology**

**10.**—(1) The authorised development must be implemented in accordance with the outline archaeological written scheme of investigation.

(2) No stage of the authorised development with the potential to affect buried archaeological assets must commence until a written scheme for the investigation of areas of archaeological interest relevant to that stage (if any) as identified in the outline archaeological written scheme of investigation has been submitted to and approved by the relevant planning authority following consultation with Historic England or Cadw as appropriate.

(3) The scheme approved under sub-paragraph (1) must be in accordance with the outline archaeological written scheme of investigation, and identify the measures to be taken to investigate, protect, record or preserve any significant archaeological remains that may be found.

(4) Any archaeological works carried out under the approved scheme must be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of that Institute.

(5) Any archaeological works must be implemented in accordance with the approved scheme.

### **Landscape and ecological management plan**

**11.**—(1) Subject to sub-paragraph (3), no stage of the authorised development must commence until a LEMP, for that stage, in accordance with the outline landscape and ecological management plan, has been submitted to and approved by the relevant planning authority.

(2) The LEMP must include:

- (a) an implementation timetable;
- (b) measures for the protection of ancient woodland areas detailed within an arboricultural method statement and shown on a tree protection plan; and
- (c) measures for the protection of existing features adjacent to the Works as detailed in the Environmental Statement.

(3) Each stage of the authorised development must be implemented in accordance with the approved LEMP for that stage.

(4) Sub-paragraph (1) only applies to those stages of the authorised development in respect of which any landscape and ecological management measures are to be implemented by the undertaker, as identified in the outline LEMP.

### **Ecological surveys**

**12.** No stage of the authorised development may commence until it has been established by survey work whether any European protected species are present within the Order limits or may be affected by that stage of the authorised development.

### **Biodiversity Net Gain**

**13.**—(1) No development may commence until a scheme (which may comprise of up to 2 parts being one for within England and one for within Wales) securing the provision of BNG of 1% or greater for the priority habitats affected by the authorised development (as calculated using Natural England Biodiversity Metric 3.1), has been submitted to and approved in writing by the relevant planning authority. The scheme must set out measures to deliver and secure the maintenance for 30 years of the BNG provision.

(2) Where such a scheme is approved under this requirement, the works set out in that scheme must be carried out in accordance with the approved scheme.

(3) The approved scheme shall be maintained in accordance with the scheme of maintenance secured for 30 years of the BNG provision under sub-paragraph (2).

### **Construction hours**

**14.**—(1) Subject to sub-paragraphs (2), (3) and (4), construction works must only take place between 0800 and 1800 on weekdays and 0800 to 1300 on Saturdays (except public and bank holidays), except in the event of an emergency unless a scheme for the carrying of those works specifying the hours in which they may be carried out has been submitted to and approved by the relevant planning authority. Where such a scheme is approved under this requirement, the works set out in that scheme must be carried out in accordance with the approved scheme.

(2) In the event of an emergency, notification of that emergency must be given to the relevant planning authority and the relevant highway authority as soon as reasonably practicable.

(3) The following operations may where necessary continue or take place outside the working hours referred to in sub-paragraph (1)—

- (a) trenchless construction techniques which cannot be interrupted;
- (b) filling, testing, dewatering and drying; and
- (c) commissioning of the pipeline works.

(4) Nothing in sub-paragraph (1) precludes—

- (a) the receipt of oversize deliveries to site and the undertaking of non-intrusive activities;
- (b) start-up and shut-down activities up to an hour either side of the stated working hours and undertaken in compliance with the CEMP;
- (c) works on a traffic sensitive street where so directed by the relevant highway authority; and
- (d) works to make construction sites safe in the event of extreme weather.

(5) In this Requirement—

“emergency” means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable opinion of the undertaker would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action;

“non-intrusive activities” means activities which would not create any discernible light, noise or vibration outside the Order limits;

“trenchless construction techniques which cannot be interrupted” means drilling, tunnelling, boring or similar construction methods used to create an underground route for the pipeline without trenching from the surface, and includes any necessary ancillary activities to that drilling, tunnelling or boring; but does not include operations to prepare for drilling, tunnelling and boring, and specifically does not include works of excavation of pits, or works to remediate the site of pits used for drilling, tunnelling and boring; and

“start-up and shut-down activities” includes personnel briefings, inspections, tool-box talks, inductions, health and safety works, deliveries, movement to place of work, unloading, maintenance and general preparation work; but does not include operation of heavy machinery for construction, or operation of generators or flood lights at work-fronts.

### **Operational noise**

**15.**—(1) Between 23.00 and 07.00 hours, noise arising from normal operation of the AGIs and BVSs may not exceed the rating levels identified in Table 15-23 of the environmental statement. Rating levels are applicable as a free field noise level at 1m from any residential property which is lawfully inhabited at the date of the making of this Order at the locations shown in Table 15-23

(2) The level set out in sub-paragraph (1) is to be as measured in accordance with British Standard 4142:2014+A1:2019 (Methods for rating and assessing industrial and commercial sound) and British Standard 7445-3:1991 (Description and measurement of environmental noise. Guide to application to noise limits) or any standards replacing those.

(3) Prior to the commencement of the authorised development, the undertaker must submit a plan to the relevant planning authorities for approval detailing how noise monitoring will be undertaken within a six month period beginning with the date of first operation of the authorised development. That plan must specify a monitoring location point for each AGI and BVS, which must be in as close proximity as the undertaker can lawfully access, or at the points representative of noise sensitive receptors, as shown in Table 15-23 of the environmental statement.

(4) Noise monitoring must be undertaken by the undertaker in accordance with the plan approved under sub-paragraph (3); and the results of this monitoring must be submitted by the undertaker to the relevant planning authority at the intervals set out in the plan.

(5) Where the results of the monitoring undertaken in accordance with sub-paragraphs (3) and (4), show any exceedance of the level set out in sub-paragraph (1), the undertaker must, within 10 working days, submit to the relevant planning authority for approval a mitigation plan detailing how the exceedance will be mitigated and including a timetable for implementing any works required to deliver such mitigation.

(6) The undertaker must comply with any plan approved under sub-paragraph (5).

### **Provision of 'as built' details**

**16.** The undertaker must, within 3 months of the completion of the authorised development, provide to the relevant planning authorities details of:

- (a) the location and depth of each part of the Pipeline as it has been constructed;
- (b) any protective measures in place over any part of the Pipeline; and
- (c) the locations of pipeline markers.

### **Restoration of land**

**17.** Subject to article 34 (temporary use of land for carrying out the authorised development), any land within the Order limits which is used temporarily for or in connection with construction must be reinstated to a condition fit for its former use, or such other condition as the relevant planning authority may approve, within 12 months of completion of the authorised development.

### **Operational and maintenance environmental management plan**

**18.—(1)** The undertaker must, no later than three months prior to the planned completion of commissioning of the authorised development, submit to the relevant planning authorities the operational and maintenance environment management plan (or plans) which details the monitoring and management requirements of the authorised development, including post-construction monitoring.

(2) The operational and maintenance environment management plans submitted under sub-paragraph (1) must be in accordance with the outline operational and maintenance environment management plan, and developed having regard to the approved CEMP(s) and the LEMP(s).

(3) Operation of the authorised development must be implemented in accordance with the submitted operational and maintenance environment management plan(s).

### **Decommissioning environmental management plan**

**19.—(1)** The undertaker must, no later than six months prior to the planned permanent cessation of operation of the authorised development, submit to the relevant planning authorities for approval a DEMP.

(2) The DEMP submitted under sub-paragraph (3) must include- the details required by the demolition management plan and specifically including:

- (a) details of any below ground apparatus to be left in situ
- (b) method statements for the decommissioning and dismantlement of above ground infrastructure;

- (c) traffic management plan for the decommissioning works; and
- (d) waste management plan for the decommissioning works;
- (3) Decommissioning of the authorised development must be implemented in accordance with the approved DEMP.

### **Written approval.**

20. Where under any of the Requirements the approval or agreement of the relevant planning authority or another person or authority is required, that approval or agreement must be given in writing.

### **Amendments to approved details**

21.—(1) With respect to any Requirement which requires the authorised development to be carried out in accordance with the details approved by the relevant planning authority or another discharging authority, the approved details must be carried out as approved unless an application for an amendment or variation is previously agreed, by the relevant planning authority or that other discharging authority as specified in the relevant Requirement, in accordance with sub-paragraph (2) and in consultation with any body specified in the relevant Requirement.

(2) No amendments to or variations from the approved details may be approved if their likely significant effects on the environment are not assessed in the environmental statement, or have not been subject to such further assessment as the relevant planning authority or that other discharging authority may require; provided that such approval must not be given except where it has been demonstrated that the subject-matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects in comparison with the authorised development as approved (as identified in the environmental statement).

(3) The approved details must be taken to include any amendments that may subsequently be approved by the relevant planning authority or that other discharging authority.

(4) Subject to sub-paragraph (2), if a relevant planning authority which receives an application for approval of any amendments to approved details under sub-paragraph (1) fails to notify the undertaker of its decision before the end of the period of 56 days beginning with the date on which the application was made, such longer period as may be agreed in writing by the undertaker and the relevant authority, it is deemed to have granted consent.

### **Anticipatory steps towards compliance with any requirement**

22. If, before the coming into force of this Order, the undertaker or any other person has taken any steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

## **PART 2**

### **Applications made under requirements**

23.—(1) Where an application has been made to a discharging authority for any consent, agreement or approval under a requirement, the discharging authority must give notice to the undertaker of its decision on the application within a period of 56 days beginning with—

- (a) where no further information is requested under requirement 25, the day immediately following that on which the application is received by the authority;
- (b) where further information is requested under requirement 25, the day immediately following that on which further information has been supplied by the undertaker; or
- (c) such longer period as may be agreed in writing by the undertaker and the relevant authority.

(2) In the event that the discharging authority does not determine an application within the period set out in sub-paragraph (1), the discharging authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period unless otherwise agreed in writing.

### **Multiple discharging authorities**

**24.** Where an application is required to be made to more than one discharging authority for any single consent, agreement or approval under a requirement, the undertaker may submit a request for comments in respect of its proposed application to each discharging authority and, where it does so, each discharging authority must provide its comments in writing on the proposed application within a period of 20 days beginning with the day immediately following that on which the request is received by the authority, or such longer period as may be agreed in writing by the undertaker and the relevant authority or authorities, so as to enable the undertaker to prepare a consolidated application to each discharging authority in respect of the consent, agreement or approval required by the requirement.

### **Further information**

**25.—(1)** Where an application has been made under requirement 23 the discharging authority may, subject to complying with the requirements of this paragraph, request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(2) If the discharging authority considers further information is necessary and the requirement does not specify that consultation with a requirement consultee is required, the discharging authority must, within 21 days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement specifies that consultation with a requirement consultee is required, the discharging authority must issue the consultation to the requirement consultee within 10 days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 10 days of receipt of such a request and in any event within 21 days of receipt of the application.

(4) If the discharging authority does not give the notification mentioned in sub-paragraphs (2) or (3) or such longer period as may be agreed in writing by the undertaker and the relevant authority, or otherwise fails to request any further information within the timescales provided for in this paragraph, it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

### **Fees**

**26.—(1)** Where an application or a request for comments is made to a relevant planning authority for any consent, agreement or approval required by a requirement, a fee must be paid to the relevant planning authority as follows—

- (a) such fee as may be prescribed (under sections 303 and 333(2A) of the 1990 Act for the discharge of conditions attached to a planning permission); or
- (b) a fee of £117 per application or request.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 35 days of—

- (a) the application or request being rejected as invalidly made; or
- (b) the relevant planning authority failing to determine the application or to provide written comments within 56 days from the date on which the application is received, or such longer period as may be agreed in writing under requirement 23, unless within that period the undertaker agrees in writing that the fee may be retained by the relevant planning authority and credited in respect of a future application or a future request for comments.

## Appeals

27.—(1) The undertaker may appeal if—

- (a) the discharging authority refuses an application for—
  - (i) any consent, agreement or approval required by a requirement or any document referred to in any requirement; or
  - (ii) any other consent, agreement or approval required under this Order, or grants it subject to conditions to which the undertaker objects;
- (b) having received a request for further information under requirement 25 the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
- (c) having received any further information requested, the relevant authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The procedure for appeals is as follows—

- (a) the undertaker must submit to the Secretary of State, a copy of the application submitted to the relevant authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
- (b) the undertaker must on the same day provide copies of the appeal documents to the relevant authority and the requirement consultee (if applicable);
- (c) within 28 days of receiving the appeals documents the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person must be sent;
- (d) the discharging authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within 10 business days beginning with the first day immediately following the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (e) the appeal parties may make any counter-submissions to the appointed person within 10 business days beginning with the first day immediately following the date of receipt of written representations pursuant to sub-paragraph (d) above; and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) If the appointed person considers that further information is necessary to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person.

(5) The appeal parties may submit written representations to the appointed person concerning matters contained in the further information.

(6) Any such representations must be submitted to the appointed person and made available to all appeal parties within 10 business days of the date mentioned in sub-paragraph (3).

## Outcome of appeals

28.—(1) On an appeal under requirement 27, the appointed person may—

- (a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not), and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person under requirement 27. Been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(3) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review within 6 weeks of the date of the appointed person's decision.

(4) Any consent, agreement or approval given by the appointed person pursuant to this Schedule is deemed to be an approval for the purpose of Part 1 of Schedule 2 (Requirements) as if it had been given by the discharging authority.

(5) The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) does not affect or invalidate the effect of the appointed person's determination.

(6) Except where a direction is given pursuant to sub-paragraph (7) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person must be met by the undertaker.

(7) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction as to the costs of the appeal parties and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

## Interpretation

29. In this part;

“the appeal parties” means the discharging authority, the requirement consultee and the undertaker.

“discharging authority” means the body responsible for giving a consent, agreement or approval under this schedule; and

“requirement consultee” means any body named in a Requirement which is the subject of an appeal as a body to be consulted by the relevant authority in discharging that Requirement.

## SCHEDULE 3

### Streets subject to street works

#### PART 1

Articles 10 and 11

#### Streets subject to permanent street works

<i>(1) Area</i>	<i>(2) Streets subject to street works</i>	<i>(3) Description of the street works</i>
In the Borough of Cheshire West and Chester	Private roads being Grinsome Road, Perimeter Road and Elton Lane, Ash Road and unnamed road off Ash Road	Works for the installation and maintenance of access for Work No. 3 between the point marked 1-AA on sheet 1a and the points marked 1-A and 1-B and 1-C, 1-CC and 1-D on



		sheet 1 of the access rights of way plans
In the Borough of Cheshire West and Chester	Ince Lane	Works for the installation and maintenance of access for Work No. 5 between the points marked 2-G and 2-H on sheet 2 of the access rights of way plans
In the Borough of Cheshire West and Chester	Private roads being unnamed road off Pool Lane	Works for the installation and maintenance of access for Work No. 10 between points marked 3-D and 3-E on sheet 3 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Wervin Road	Works for the installation and maintenance of access for Work No. 17 between points marked 7-D and 7-E on sheet 7 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Station Road	Works for the installation and maintenance of access for Work Nos. 25 and 25A between points marked 10-AA and 10-BB on sheet 10 of the access and rights of way plans
In the County of Flintshire	Sealand Road	Works for the installation and maintenance of access for Work Nos. 30 and 30B between points marked 12-E and 12-F on sheet 12 of the access and rights of way plans
In the County of Flintshire	Deeside Lane	Works for the installation and maintenance of access for Work Nos. 30C and 31 between points marked 12-DD on sheet 12 and 13-AA on sheet 13 of the access and rights of way plans
In the County of Flintshire	Private road off B5129 (Flint Road)	Works for the installation and maintenance of access for Work No. 31B between points marked 14-I and 14-J on sheet 14 of the access and rights of way plans
In the County of Flintshire	Private road off Gladstone Way	Works for the installation and maintenance of access for Work Nos. 35 and 35A between points marked 16-M and 16-N on sheet 16 of the access and rights of way plans
In the County of Flintshire	Holywell Road	Works for the installation and maintenance of access for Work Nos. 41 and 41C between points marked 18-KK

		and 18-JJ on sheet 18 of the access and rights of way plans
In the County of Flintshire	Alt-Goch Lane	Works for the installation and maintenance of access for Work Nos. 48 and 49 between points marked 22-K and 22-L on sheet 22 of the access and rights of way plans

PART 2

Article 10

Streets subject to temporary street works

<i>(1) Area</i>	<i>(2) Streets subject to street works</i>	<i>(3) Description of the street works</i>
In the Borough of Cheshire West and Chester	A5117	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 2-I and 2-J on sheet 2 of the access and rights of way plans
In the Borough of Cheshire West and Chester	A5117	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 3-G and 3-H on sheet 3 of the access and rights of way plans
In the Borough of Cheshire West and Chester	B5132 (Cryers Lane)	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 4-A and 4-B on sheet 4 of the access and rights of way plans
In the Borough of Cheshire West and Chester	B5132 (Cryers Lane)	Works for the installation, use, maintenance and restoration of temporary access between points marked 4-E and 4-F on sheet 4 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Thornton Green Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 5-B and 5-C on sheet 5 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Unnamed private track off Halls Green Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 5-I and 5-J on sheet 5 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Unnamed private track off Ince Lane	Works for the installation, use, maintenance and restoration of

		temporary access between points marked 5-K and 5-L on sheet 5 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Picton Lane	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 6-F and 6-G on sheet 6 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Picton Lane	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 7-F and 7-G on sheet 7 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Caughall Road and Croughton Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 8-B and 8-C on sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Chorlton Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 8-G and 8-H on sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Unnamed private track off Stanney Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 8-L and 8-M on sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Chorlton Road	Works for the installation, use, maintenance and restoration of permanent access between points marked 8-N and 8-O on sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	A41 (Liverpool Road)	Works for the installation, use, maintenance and restoration of temporary access between points marked 9-AA and 9-BB on sheet 9 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Grove Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 10-C and 10-D on sheet 10 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Overwood Lane	Works for the installation, use, maintenance and restoration of

		temporary access between points marked 10-K and 10-L on sheet 10 of the access and rights of way plans
In the County of Cheshire West and Chester	Kingswood Lane (Byway Open to all Traffic 263/BY11/1)	Works for the installation, use, maintenance and restoration of temporary access between points marked 11-E and 11-F on sheet 11 of the access and rights of way plans
In the County of Flintshire	Sealand Road	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 13-E and 13-F on sheet 13 of the access and rights of way plans
In the County of Flintshire	Flint Road	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 14-A and 14-B on sheet 14 of the access rights of way plans
In the County of Flintshire	Unnamed private tracks off Flint Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 14-F, 14-G and 14-H on sheet 14 of the access and rights of way plans
In the County of Flintshire	Unnamed private tracks off Flint Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 14-HH on sheet 14 and 15-CC on sheet 15 of the access and rights of way plans
In the County of Flintshire	Unnamed private tracks off Chester Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 15-A, 15-B, 15-C and 15-D on sheet 15 of the access and rights of way plans
In the County of Flintshire	Moor Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 15-I and 15-J on sheet 15 of the access and rights of way plans
In the County of Flintshire	Unnamed private road off Chester Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 15-K and 15-L on sheet 15 of the access rights of way plans

In the County of Flintshire	Chester Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 16-AA and 16-BB on sheet 16 of the access rights of way plans
In the County of Flintshire	Chester Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 16-BB and 16-CC on sheet 16 of the access rights of way plans
In the County of Flintshire	Chester Road	Works for the installation, use, maintenance and restoration of temporary access between points marked 16-CC and 16-DD on sheet 16 of the access rights of way plans
In the County of Flintshire	Unnamed private track off Colliery Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 16-H and 16-I on sheet 16 of the access rights of way plans
In the County of Flintshire	Colliery Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 16-J and 16-K on sheet 16 of the access rights of way plans
In the County of Flintshire	Lower Aston Hall Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 17-C and 17-D on sheet 17 of the access rights of way plans
In the County of Flintshire	Lower Aston Hall Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 17-EE and 17-FF on sheet 17 of the access rights of way plans
In the County of Flintshire	Church Lane and unnamed private track off Old Aston Hill	Works for the installation, use, maintenance and restoration of temporary access between points marked 17-S on sheet 17 and 18-A on sheet 18 of the access rights of way plans
In the County of Flintshire	Shotton Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 18-B and 18-C on sheet 18 of the access rights of way plans

In the County of Flintshire	B5125 (Holywell Road)	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 18-G and 18-H on sheet 18 of the access and rights of way plans
In the County of Flintshire	Green Lane	Works for the installation, use, maintenance and restoration of temporary access and any required visibility splays between points marked 18-R and 18-Q on sheet 18 of the access and rights of way plans
In the County of Flintshire	Pinfold Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 19-A and 19-B on sheet 19 of the access rights of way plans
In the County of Flintshire	Brookside Junction to B5125 Mini Roundabout	Works for the installation, use, maintenance and restoration of temporary access between points marked 19-FF and 19-GG on sheet 19 of the access and rights of way plans
In the County of Flintshire	Brookside Junction to B5125 Mini Roundabout	Works for the installation, use, maintenance and restoration of temporary access between points marked 19-H and 19-I on sheet 19 of the access and rights of way plans
In the County of Flintshire	Brookside and Brookside Terrace	Works for the installation, use, maintenance and restoration of temporary access between points marked 20-B, 20-C and 20-CC on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Works for the installation, use, maintenance and restoration of temporary access between points marked 20-DD and 20-EE on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Works for the installation, use, maintenance and restoration of temporary access between points marked 20-I and 20-J on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Works for the installation, use, maintenance and restoration of temporary access between points marked 20-N and 20-O on sheet 20 of the access and rights of way plans

In the County of Flintshire	B5125 (Village Road)	Works for the installation, use, maintenance and restoration of temporary access between points marked 20-R and 20-S on sheet 20 of the access and rights of way plans
In the County of Flintshire	Starkey Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 21-D and 21-E on sheet 21 of the access and rights of way plans
In the County of Flintshire	Cornist Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 25-E and 25-F on sheet 25 of the access rights of way plans
In the County of Flintshire	B5121	Works for the installation, use, maintenance and restoration of temporary access between points marked 28-C and 28-D on sheet 28 of the access rights of way plans
In the County of Flintshire	Racecourse Lane	Works for the installation, use, maintenance and restoration of temporary access between points marked 29-C and 29-D on sheet 29 of the access rights of way plans

## SCHEDULE 4

### New means of access

#### PART 1

##### New permanent means of access from the public highway

<i>(1) Area</i>	<i>(2) Street</i>	<i>(3) Description of relevant part of access</i>
In the Borough of Cheshire West and Chester	Wervin Road	Works for the installation, use and maintenance of a new access at a point marked 7-B on sheet 7 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Wervin Road	Works for the installation, use and maintenance of a new access at a point marked 7-C on sheet 7 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Station Road	Works for the installation, use and maintenance of a new access at the point marked 10-

		A on sheet 10 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Overwood Lane	Works for the installation, use and maintenance of a new access between points marked 11-A and 11-B on sheet 11 of the access and rights of way plans
In the County of Flintshire	Sealand Road	Works for the installation, use and maintenance of a new access at a point marked 12-C on sheet 12 of the access and rights of way plans
In the County of Flintshire	Lower Aston Hall Lane	Works for the installation, use and maintenance of a new access between points marked 17-A and 17-B on sheet 17 of the access and rights of way plans
In the County of Flintshire	Church Lane	Works for the installation, use and maintenance of a new access at a point marked 17-NN on sheet 17 of the access and rights of way plans
In the County of Flintshire	Station Road	Works for the installation, use and maintenance of a new access at a point marked 18-K on sheet 18 of the access and rights of way plans
In the County of Flintshire	Green Lane	Works for the installation, use and maintenance of a new access at a point marked 18-S on sheet 18 of the access and rights of way plans
In the County of Flintshire	Pinfold Lane	Works for the installation, use and maintenance of a new access at a point marked 19-C on sheet 19 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Works for the installation, use and maintenance of a new access between points marked 20-T and 20-Q on sheet 20 of the access and rights of way plans
In the County of Flintshire	Alt-Goch Lane	Works for the installation, use and maintenance of a new access between points marked 22-G and 22-H on sheet 22 of the access and rights of way plans
In the County of Flintshire	Cornist Lane	Works for the installation, use and maintenance of a new access between points marked 25-G and 25-H on sheet 25 of the access rights of way plans



In the County of Flintshire	B5121	Works for the installation, use and maintenance of a new access between points marked 28-A and 28-B on sheet 28 of the access rights of way plans
In the County of Flintshire	Racecourse Lane	Works for the installation, use and maintenance of a new access between points marked 29-A and 29-B on sheet 29 of the access rights of way plans

## PART 2

Article 15

### New temporary means of access from the public highway

<i>(1) Area</i>	<i>(2) Street</i>	<i>(3) Description of relevant part of access</i>
In the Borough of Cheshire West and Chester	Picton Lane	Works for the installation, use, maintenance and restoration of temporary access at the point marked 7-AA on sheet 7 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Croughton Road	Works for the installation, use, maintenance and restoration of temporary access at the point marked 8-K on sheet 8 of the access rights of way plans
In the County of Flintshire	Holywell Road	Works for the installation and maintenance of a new access at a point marked 18-J on sheet 18 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Works for the installation and maintenance of a new access at a point marked 20-E on sheet 20 of the access and rights of way plans

## PART 3

Article 15 and 17

### New private means of access

<i>(1) Area</i>	<i>(2) Street</i>	<i>(3) Description of relevant part of access</i>
In the Borough of Cheshire West and Chester	Private roads being Grinsome Road, Perimeter Road and Elton Lane	Access over existing private roads between the point marked 1-AA on sheet 1a and the points marked 1-A and 1-B on sheet 1 of the access rights of way plans
In the Borough of Cheshire West and Chester	Private roads being Ash Road and unnamed road off Ash Road	Access over existing private roads between the points marked 1-C, 1-CC and 1-D on sheet 1 of the access and rights of way plans

In the Borough of Cheshire West and Chester	Private roads being unnamed road off Ash Road	Access over existing field access at the point marked 1-E on sheet 1 of the access rights of way plans
In the Borough of Cheshire West and Chester	Private roads being unnamed road off Ash Road	Access over a new access between the points marked 1-G to 1-H on sheet 1 of the access rights of way plans
In the Borough of Cheshire West and Chester	Ince Lane	Access over existing field access at the point marked 2-A on sheet 2 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Pool Lane	Access over existing private road between the points marked 3-D and 3-E on sheet 3 of the access rights of way plans
In the Borough of Cheshire West and Chester	A5117	Access over existing field access at the point marked 3-F on sheet 3 of the access rights of way plans
In the Borough of Cheshire West and Chester	B5132 (Cryers Lane)	Access over existing field access at the point marked 4-G on sheet 4 of the access rights of way plans
In the Borough of Cheshire West and Chester	Thornton Green Lane	Access over existing field access at the point marked 5-A on sheet 5 of the access rights of way plans
In the Borough of Cheshire West and Chester	Thornton Green Lane	Access over existing field access at the point marked 5-D on sheet 5 of the access rights of way plans
In the Borough of Cheshire West and Chester	B5132 (Cryers Lane)	Access over existing field access at the point marked 5-E on sheet 5 of the access rights of way plans
In the Borough of Cheshire West and Chester	Unnamed private track off Halls Green Lane	Access over existing field access at the point marked 5-F on sheet 5 of the access rights of way plans
In the Borough of Cheshire West and Chester	Picton Lane	Access over existing field access at the point marked 6-H on sheet 6 of the access rights of way plans
In the Borough of Cheshire West and Chester	Unnamed private track off Picton Lane	Access over existing private road between the points marked 6-I and 6-J on sheet 6 of the access rights of way plans
In the Borough of Cheshire West and Chester	Picton Lane	Access over existing track and field access at the point marked 7-A on sheet 7 of the access rights of way plans
In the County of Cheshire	Wervin Road	Access over new field

West and Chester		access at the point marked 7-B on sheet 7 of the access rights of way plans
In the Borough of Cheshire West and Chester	Wervin Road	Access over new field access at the point marked 7-C on sheet 7 of the access rights of way plans
In the Borough of Cheshire West and Chester	Caughall Road and Croughton Road	Access over existing field access at the point marked 8-D on sheet 8 of the access rights of way plans
In the Borough of Cheshire West and Chester	Chorlton Lane	Access over existing field access at the point marked 8-E on sheet 8 of the access rights of way plans
In the Borough of Cheshire West and Chester	Chorlton Lane	Access over existing field access at the point marked 8-F on sheet 8 of the access rights of way plans
In the Borough of Cheshire West and Chester	Chorlton Lane	Access over existing field access between the points marked 8-I and 8-J on sheet 8 of the access rights of way plans
In the Borough of Cheshire West and Chester	A41 (Liverpool Road)	Access over existing field access at the point marked 9-B on sheet 9 of the access rights of way plans
In the Borough of Cheshire West and Chester	Station Road	Access over a new access at a point marked 10-A on sheet 10 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Station Road	Access over existing field access at the point marked 10-B on sheet 10 of the access rights of way plans
In the Borough of Cheshire West and Chester	A41 (Liverpool Road)	Access over existing field access at the point marked 10-E on sheet 10 of the access rights of way plans
In the Borough of Cheshire West and Chester	Townfield Lane	Access over existing field access at the point marked 10-H on sheet 10 of the access rights of way plans
In the Borough of Cheshire West and Chester	Townfield Lane	Access over existing field access at the point marked 10-I on sheet 10 of the access rights of way plans
In the County of Cheshire West and Chester	Overwood Lane	Access over existing field access at the point marked 10-J on sheet 10 of the access rights of way plans
In the County of Cheshire West and Chester	Overwood Lane	Access over a new access between points marked 11-A

		and 11-B on sheet 11 of the access and rights of way plans
In the Borough of Cheshire West and Chester	A540 (Parkgate Road)	Access over existing field access at the point marked 11-D on sheet 11 of the access rights of way plans
In the Borough of Cheshire West and Chester	Hermitage Road	Access over existing field access at the point marked 12-A on sheet 12 of the access rights of way plans
In the Borough of Cheshire West and Chester	Hermitage Road	Access over existing field access at the point marked 12-B on sheet 12 of the access rights of way plans
In the County of Flintshire	Sealand Road	Access over a new access at a point marked 12-C on sheet 12 of the access and rights of way plans
In the County of Flintshire	Deeside Lane	Access over existing private road between the point marked 12-D on sheet 12 and point 13-AA on sheet 13 of the access rights of way plans
In the County of Flintshire	Deeside Lane	Access over existing field access at the point marked 13-B on sheet 13 of the access rights of way plans
In the County of Flintshire	Deeside Lane	Access over existing field access at the point marked 13-C on sheet 13 of the access rights of way plans
In the County of Flintshire	Private road off B5129 (Flint Road)	Access over existing private road between the points marked 14-C and 14-D on sheet 14 of the access rights of way plans
In the County of Flintshire	Private road off B5129 (Flint Road)	Access over new field access between the points marked 14-D and 14-DD on sheet 14 of the access rights of way plans
In the County of Flintshire	Chester Road	Access over existing field access at the point marked 15-C on sheet 15 of the access rights of way plans
In the County of Flintshire	Moor Lane	Access over existing field access at the point marked 15-H on sheet 15 of the access rights of way plans
In the County of Flintshire	Unnamed private road off Chester Road	Access over existing private road and field access between the points marked 15-K and 15-M on sheet 15 of the access rights of way plans
In the County of Flintshire	Unnamed private road off Chester Road	Access over existing private road and field access between

		the points marked 15-K and 15-N on sheet 15 of the access rights of way plans
In the County of Flintshire	Chester Road	Access over existing field access at the point marked 16-B on sheet 16 of the access rights of way plans
In the County of Flintshire	Chester Road	Access over existing field access at the point marked 16-C on sheet 16 of the access rights of way plans
In the County of Flintshire	Willow Lane	Access over existing field access at the point marked 16-E on sheet 16 of the access rights of way plans
In the County of Flintshire	Colliery Lane	Access over existing field access at the point marked 16-KK on sheet 16 of the access rights of way plans
In the County of Flintshire	Gladstone Way	Access over new field access at the point marked 16-L on sheet 16 of the access rights of way plans
In the County of Flintshire	Lower Aston Hall Lane	Access over a new access between points marked 17-A and 17-B on sheet 17 of the access and rights of way plans
In the County of Flintshire	Lower Aston Hall Lane	Access over existing field access at the point marked 17-E on sheet 17 of the access rights of way plans
In the County of Flintshire	Church Lane	Access over private road between the points marked 17-N and 17-NN, and over new field access at the point marked 17-NN on sheet 17 of the access rights of way plans
In the County of Flintshire	Aston Hill	Access over a new access at a point marked 17-R on sheet 17 of the access and rights of way plans
In the County of Flintshire	Shotton Lane	Access over existing field access at the point marked 18-D on sheet 18 of the access rights of way plans
In the County of Flintshire	Shotton Lane	Access over existing field access at the point marked 18-E on sheet 18 of the access rights of way plans
In the County of Flintshire	B5125 (Holywell Road)	Access over a new field access at the point marked 18-K on sheet 18 of the access rights of way plans
In the County of Flintshire	Green Lane	Access over existing field access at the point marked 18-

		L on sheet 18 of the access rights of way plans
In the County of Flintshire	Green Lane	Access over existing field access at the point marked 18-P on sheet 18 of the access rights of way plans
In the County of Flintshire	Green Lane	Access over new field access at the point marked 18-S on sheet 18 of the access rights of way plans
In the County of Flintshire	Pinfold Lane	Access over a new access at a point marked 19-C on sheet 19 of the access and rights of way plans
In the County of Flintshire	Pinfold Lane	Access over an existing access at a point marked 19-CC on sheet 19 of the access and rights of way plans
In the County of Flintshire	Brookside Junction to B5125 Mini Roundabout	Access over existing access at a point marked 19-G on sheet 19 of the access and rights of way plans
In the County of Flintshire	Brookside	Access over existing access at a point marked 20-A on sheet 20 of the access and rights of way plans
In the County of Flintshire	Brookside Terrace	Access over existing access at a point marked 20-D on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Access over a new access between points marked 20-T and 20-Q on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Access over existing field access at the point marked 20-K on sheet 20 of the access rights of way plans
In the County of Flintshire	Connah's Quay Road	Access over existing field access at the point marked 20-L on sheet 20 of the access rights of way plans
In the County of Flintshire	Connah's Quay Road	Access over existing field access at the point marked 20-M on sheet 20 of the access rights of way plans
In the County of Flintshire	Starkey Lane	Access over existing field access at the point marked 21-F on sheet 21 of the access rights of way plans
In the County of Flintshire	Alt-Goch Lane	Access over existing field access at the point marked 22-E on sheet 22 of the access rights of way plans

In the County of Flintshire	Alt-Goch Lane	Access over existing field access at the point marked 22-F on sheet 22 of the access rights of way plans
In the County of Flintshire	Alt-Goch Lane	Access over a new access between points marked 22-G and 22-H on sheet 22 of the access and rights of way plans
In the County of Flintshire	Alt-Goch Lane	Access over existing field access at the point marked 22-M on sheet 22 of the access rights of way plans
In the County of Flintshire	Cornist Lane	Access over new field access between points marked 25-G and 25-H on sheet 25 of the access rights of way plans
In the County of Flintshire	B5121	Access over new field access between points marked 28-A and 28-B on sheet 28 of the access rights of way plans
In the County of Flintshire	Racecourse Lane	Access over new field access between points marked 29-A and 29-B on sheet 29 of the access rights of way plans

## SCHEDULE 5

Article 14

### Streets to be temporarily stopped up or restricted

<i>(1) Area</i>	<i>(2) Street</i>	<i>(3) Description of temporary stopping up etc.</i>
In the Borough of Cheshire West and Chester	Private roads being Grinsome Road, Perimeter Road and Elton Lane, Ash Road and unnamed road off Ash Road	Temporary full width closure to all traffic between the point marked 1-AA on sheet 1a and the points marked 1-A and 1-B and 1-C, 1-CC and 1-D on sheet 1 of the access rights of way plans
In the Borough of Cheshire West and Chester	Ince Lane	Temporary closure of the verge and reduction in carriageway width with traffic management measures between the points marked 2-G and 2-H on sheet 2 of the access rights of way plans
In the Borough of Cheshire West and Chester	A5117	Temporary closure of the verge and reduction in carriageway width with traffic management measures between points marked 2-I and 2-J on sheet 2 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Private roads being unnamed road off Pool Lane	Temporary full width closure to all traffic between points marked 3-D and 3-E on sheet 3

		of the access and rights of way plans
In the Borough of Cheshire West and Chester	A5117	Temporary partial width closure to all traffic with traffic management measures between points marked 3-G and 3-H on sheet 3 of the access and rights of way plans
In the Borough of Cheshire West and Chester	B5132 (Cryers Lane)	Partial width closure to all traffic with traffic management measures between points marked 4-A and 4-B on sheet 4 of the access and rights of way plans
In the Borough of Cheshire West and Chester	B5132 (Cryers Lane)	Temporary full width closure to all traffic between points marked 4-E and 4-F on sheet 4 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Thornton Green Lane	Temporary full width closure to all traffic between points marked 5-B and 5-C on sheet 5 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Unnamed private track off Halls Green Lane	Temporary full width closure to all traffic between points marked 5-I and 5-J on sheet 5 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Unnamed private track off Ince Lane	Temporary full width closure to all traffic between points marked 5-K and 5-L on sheet 5 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Picton Lane	Temporary full width closure to all traffic between points marked 6-F and 6-G on sheet 4 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Wervin Road	Temporary partial width closure to all traffic with traffic management measures between points marked 7-D and 7-E on sheet 7 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Picton Lane	Temporary full width closure to all traffic between points marked 7-F and 7-G on sheet 7 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Caughall Road and Croughton Road	Temporary full width closure to all traffic between points marked 8-B and 8-C on sheet 8 of the access and rights of way plans



In the Borough of Cheshire West and Chester	Chorlton Lane	Temporary full width closure to all traffic between points marked 8-G and 8-H on sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Unnamed farm track off Stanney Lane	Temporary full width closure to all traffic between points marked 8-L and 8-M on sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Chorlton Road	Temporary full width closure to all traffic between points marked 8-N and 8-O on sheet 8 of the access and rights of way plans
In the Borough of Cheshire West and Chester	A41	Temporary partial width closure to all traffic with traffic management measures between points marked 9-AA and 9-BB on sheet 9 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Station Road	Temporary partial width closure to all traffic with traffic management measures between points marked 10-AA and 10-BB on sheet 10 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Grove Road	Temporary full width closure to all traffic between points marked 10-C and 10-D on sheet 10 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Overwood Lane	Temporary partial width closure to all traffic with traffic management measures between points marked 10-K and 10-L on sheet 10 of the access and rights of way plans
In the Borough of Cheshire West and Chester	Kingswood Lane (Byway Open to all Traffic 263/BY11/1)	Temporary full width closure to all traffic between points marked 11-E and 11-F on sheet 11 of the access and rights of way plans
In the County of Flintshire	Sealand Road	Temporary partial width closure to all traffic with traffic management measures between points marked 12-E and 12-F on sheet 12 of the access and rights of way plans
In the County of Flintshire	Deeside Lane	Temporary partial width closure to all traffic with traffic management measures between points marked 12-DD on sheet 12 and 13-AA on sheet 13 of the access and rights of way plans

In the County of Flintshire	Deeside Lane	Temporary full width closure to all traffic between points marked 13-A and 13-AA on sheet 13 of the access and rights of way plans
In the County of Flintshire	Sealand Road	Temporary partial width closure to all traffic with traffic management measures between points marked 13-E and 13-F on sheet 13 of the access and rights of way plans
In the County of Flintshire	Flint Road	Temporary closure of the verge and reduction in carriageway width with traffic management measures between points marked 14-A and 14-B on sheet 14 of the access rights of way plans
In the County of Flintshire	Unnamed private tracks off Flint Road	Temporary full width closure to all traffic between points marked 14-F, 14-G and 14-H on sheet 14 of the access and rights of way plans
In the County of Flintshire	Private road off B5129 (Flint Road)	Temporary full width closure to all traffic between points marked 14-I and 14-J on sheet 14 of the access and rights of way plans
In the County of Flintshire	Unnamed private tracks off Chester Road	Temporary full width closure to all traffic between points marked 14-HH on sheet 14 and 15-CC on sheet 15 of the access and rights of way plans
In the County of Flintshire	Unnamed private tracks off Chester Road	Temporary full width closure to all traffic between points marked 15-A, 15-B and 15-C and 15-D on sheet 15 of the access and rights of way plans
In the County of Flintshire	Moor Lane	Temporary full width closure to all traffic between points marked 15-I and 15-J on sheet 15 of the access and rights of way plans
In the County of Flintshire	Unnamed private road off Chester Road	Temporary full width closure to all traffic between points marked 15-K and 15-L on sheet 15 of the access rights of way plans
In the County of Flintshire	Chester Road	Temporary partial width closure to all traffic with traffic management measures between points marked 16-AA and 16-BB on sheet 16 of the access rights of way plans

In the County of Flintshire	Chester Road	Temporary partial width closure to all traffic with traffic management measures between points marked 16-BB and 16-CC on sheet 16 of the access rights of way plans
In the County of Flintshire	Chester Road	Temporary partial width closure to all traffic with traffic management measures between points marked 16-CC and 16-DD on sheet 16 of the access rights of way plans
In the County of Flintshire	Unnamed private track off Colliery Lane	Temporary full width closure to all traffic between points marked 16-H and 16-I on sheet 16 of the access rights of way plans
In the County of Flintshire	Colliery Lane	Temporary full width closure to all traffic between points marked 16-J and 16-K on sheet 16 of the access rights of way plans
In the County of Flintshire	Private road off Gladstone Way	Temporary full width closure to all traffic between points marked 16-M and 16-N on sheet 16 of the access and rights of way plans
In the County of Flintshire	Lower Aston Hall Lane	Temporary full width closure to all traffic between points marked 17-C and 17-D on sheet 17 of the access rights of way plans
In the County of Flintshire	Lower Aston Hall Lane	Temporary closure of the verge and reduction in carriageway width with traffic management measures between points marked 17-EE and 17-FF on sheet 17 of the access rights of way plans
In the County of Flintshire	Church Lane	Temporary suspension of parking between the points marked 17-N and 17-NN, on sheet 17 of the access rights of way plans
In the County of Flintshire	Church Lane unnamed private track off Old Aston Hill	Temporary full width closure to all traffic between points marked 17-S on sheet 17 and 18-A on sheet 18 of the access rights of way plans
In the County of Flintshire	Shotton Lane	Temporary full width closure to all traffic between points marked 18-B and 18-C on sheet 18 of the access rights of way plans

In the County of Flintshire	B5125 (Holywell Road)	Temporary partial width closure to all traffic with traffic management measures between points marked 18-G and 18-H on sheet 18 of the access and rights of way plans
In the County of Flintshire	Holywell Road	Temporary partial width closure to all traffic with traffic management measures between points marked 18-KK and 18-JJ on sheet 18 of the access and rights of way plans
In the County of Flintshire	Green Lane	Temporary full width closure to all traffic between points marked 18-R and 18-Q on sheet 18 of the access and rights of way plans
In the County of Flintshire	Pinfold Lane	Temporary full width closure to all traffic between points marked 19-A and 19-B on sheet 19 of the access and rights of way plans
In the County of Flintshire	Brookside Junction to B5125 Mini Roundabout	Temporary full width closure to all traffic between points marked 19-FF and 19-GG on sheet 19 of the access and rights of way plans
In the County of Flintshire	Brookside Junction to B5125 Mini Roundabout	Temporary full width closure to all traffic between points marked 19-H and 19-I on sheet 19 of the access and rights of way plans
In the County of Flintshire	Brookside and Brookside Terrace	Temporary full width closure to all traffic between points marked 20-B, and 20-C and 20-CC on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Temporary full width closure to all traffic between points marked 20-DD and 20-EE on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Temporary full width closure to all traffic] between points marked 20-I and 20-J on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Temporary partial width closure to all traffic with traffic management measures between points marked 20-N and 20-O on sheet 20 of the access and rights of way plans
In the County of Flintshire	B5125 (Village Road)	Temporary full width closure to all traffic between points

		marked 20-R and 20-S on sheet 20 of the access and rights of way plans
In the County of Flintshire	Starkey Lane	Temporary full width closure to all traffic between points marked 21-D and 21-E on sheet 21 of the access and rights of way plans
In the County of Flintshire	Alt-Goch Lane	Temporary partial width closure to all traffic with traffic management measures between points marked 22-K and 22-L on sheet 22 of the access and rights of way plans
In the County of Flintshire	Cornist Lane	Temporary partial width closure to all traffic with traffic management measures between points marked 25-E and 25-F on sheet 25 of the access rights of way plans
In the County of Flintshire	B5121	Temporary partial width closure to all traffic with traffic management measures between points marked 28-C and 28-D on sheet 28 of the access rights of way plans
In the County of Flintshire	Racecourse Lane	Temporary full width closure to all traffic between points marked 29-C and 29-D on sheet 29 of the access rights of way plans

## SCHEDULE 6

Article 13

### Public rights of way to be temporarily restricted

<i>(1) Area</i>	<i>(2) Public right of way</i>	<i>(3) Extent of restriction (being closure to all use)</i>
In the Borough of Cheshire West and Chester	123/FP3/1	Between the points marked 2-E and 2-F on sheet 2 of the access and rights of way plans shown with a dashed orange line
In the Borough of Cheshire West and Chester	294/FP2/1 and 123/FPS/1	Between the points marked 4-H and 4-I, and 4-K and 4-J on sheet 4 of the access and rights of way plans shown with a dashed orange line
In the Borough of Cheshire West and Chester	318/FP1/1	Between the points marked 5-G and 5-H on sheet 5 of the access and rights of way plans shown with a dashed orange line

In the Borough of Cheshire West and Chester	309/FP1/2	Between the points marked 6-A and 6-B on sheet 6 of the access and rights of way plans shown with a dashed orange line
In the Borough of Cheshire West and Chester	309/FP3/1 and 241/FP6/2	Between the points marked 6-C and 6-D on sheet 6 of the access and rights of way plans shown with a dashed orange line
In the Borough of Cheshire West and Chester	211/FP4/1	Between the points marked 10-F and 10-G on sheet 10 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 308/1 and Footpath 307/3	Between the points marked 15-E and 15-F on sheet 15 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 308/1/10	Between the points marked 15-E and 15-G on sheet 15 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 308/4 and Footpath 303/44	Between the points marked 15-O and 15-P on sheet 15 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Chester Road	Between the points marked 16-AA and 16-DD on sheet 16 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 303/32	Between the points marked 16-F and 16-G on sheet 16 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 303/30	Between the points marked 17-AA and 17-BB on sheet 17 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 303/34	Between the points marked 17-G and 17-H on sheet 17 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 303/26	Between the points marked 17-J and 17-K on sheet 17 of the access and rights of way plans shown with a dashed orange line

In the County of Flintshire	Footpath 303/25	Between the points marked 17-M and 17-MM on sheet 17 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 303/22 and Footpath 303/24	Between the points marked 17-P and 17-Q on sheet 17 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 303/20	Between the points marked 18-I and 18-II on sheet 18 of the access and rights of way plans shown
In the County of Flintshire	Footpath 303/143 and Footpath 303/21	Between the points marked 18-J and 18-T, 18-K and 18-L on sheet 18 of the access and rights of way plans shown
In the County of Flintshire	Footpath 303/141	Between the points marked 18-M and 18-N on sheet 18 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 414/39	Between the points marked 19-DD and 19-E on sheet 19 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 414/4	Between the points marked 20-F and 20-FF on sheet 20 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 414/2	Between the points marked 20-P on sheet 20 and 21-AA on sheet 21 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 414/1	Between the points marked 21-A and 21-B on sheet 21 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 404/70	Between the points marked 22-A and 22-B on sheet 22 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 404/68	Between the points marked 22-B and 22-C on sheet 22 of the access and rights of way plans shown with a dashed orange line
In the County of Flintshire	Footpath 404/66	Between the points marked 22-I and 22-J on sheet 22 of the access and rights of way plans

		shown with a dashed orange line
In the County of Flintshire	Footpath 404/39	Between the points marked 25-I and 25-J on sheet 25 of the access and rights of way plans shown with a dashed orange

## SCHEDULE 7

Article 34

### Land of which only temporary possession may be taken

#### PART 1

##### Land of which only temporary possession may be taken

<i>(1) Area</i>	<i>(2) Number of plot shown on land plans</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>(4) Relevant part of authorised development</i>
Cheshire and Chester West	1-05	Temporary use as a construction working area and for access (as part of Work No.3)	Work Nos 1, 2, 3, 3A, 3B 4 and 5
Cheshire and Chester West	1-06d	Temporary use as a construction access (Work No.3A)	Work Nos 1, 2, 3, 3A, 3B, 4 and 5
Cheshire and Chester West	1-08	Temporary use as a construction compound and working area (as part of Work No.1A)	Work Nos 1, 2, 3, 4 and 5
Cheshire and Chester West	1-16, 1-17	Temporary use as construction access (as part of Work No.3)	Work Nos 1, 2, 3, 4 and 5
Cheshire and Chester West	2-02	Temporary use as a construction working area and for access to facilitate construction (as part of Work No.5C)	Work Nos 2, 3, 4 and 5
Cheshire and Chester West	2-04	Temporary use as a construction access (as part of Work No.5C)	Work Nos 2, 3, 4, 5 and 6
Cheshire and Chester West	2-07	Temporary use as a construction access (as part of Work No.5A)	Work Nos 2, 3, 4, 5 and 6
Cheshire and Chester West	2-11, 2-12	Temporary use a construction access (as part of Work No.5B)	Work Nos 2, 3, 4, 5 and 6
Cheshire and Chester West	3-01	Temporary use as a construction access (Work No. 6C)	Work Nos 4, 5, 6, 7 and 11
Cheshire and Chester West	3-02	Temporary use as a construction compound and working area (as part of Work No. 6B)	Work Nos 4, 5, 6, 7, 11, 57A and 57B
Cheshire and Chester West	4-01, 4-02	Temporary use as a construction compound and working area (as part of Work No. 6B)	Work Nos 4, 5, 6, 7, 11, 57A and 57B
Cheshire and Chester West	4-03, 4-04	Temporary use for a construction access including visibility splay (as part of Work No. 6D)	Work Nos 4, 5, 6, 7, 11, 57A and 57B
Cheshire and Chester West	4-11	Temporary use as a construction access (Work No. 6E)	Work Nos 4, 5, 6, 7, 11, 57A and 57B
Cheshire and Chester West	5-03, 5-04	Temporary use as a construction access (as part of Work No 12)	Work Nos 11, 12, 13, 14, 57C and 57D



Cheshire and Chester West	5-19, 5-21, 5-24, 5-25, 5-26, 6-11, 6-13	Temporary use for access and peat storage	Work Nos 13, 13A, 14, 57E and 57F
Cheshire and Chester West	6-20	Temporary use as a construction compound and working area (as part of Work No. 15A)	Work Nos 14, 15 and 16
Cheshire and Chester West	6-21	Temporary use as a construction access (Work No.15B)	Work Nos 14, 15 and 16
Cheshire and Chester West	7-02, 7-02a, 7-03b	Temporary use as a construction access (Work No.16B)	Work No. 16A
Cheshire and Chester West	7-10	Temporary use as a working area (as part of Work No. 17)	Work No. 17
Cheshire and Chester West	8-02	Temporary use as a construction working area and access (Work No. 18A)	Work Nos. 17, 18, 19, 19A, 20 and 21
Cheshire and Chester West	8-06, 8-08	Temporary use as a construction working area (Work No. 18)	Work Nos. 18, 19, 19A, 20 and 21
Cheshire and Chester West	8-09	Temporary use as a construction access, compound and working area (Work Nos.19A and 19B)	Work Nos. 17, 18, 19, 19A, 20 and 21
Cheshire and Chester West	8-14	Temporary use as a construction access (Work No. 19C)	Work Nos. 20 and 21
Cheshire and Chester West	9-02, 9-05, 9-06, 9-08, 9-11, 9-13	Temporary use as a construction access and working area (as part of Work No. 22)	Work Nos. 19, 22, 23, 24 and 57G
Cheshire and Chester West	9-18	Temporary use as a construction access (Work No. 23A)	Work Nos. 19, 22, 23 and 24
Cheshire and Chester West	9-20	Temporary use as a construction access and working area (as part of Work No. 23B)	Work Nos. 22, 23 and 24
Cheshire and Chester West	9-23	Temporary use as a construction access (as part of Work No.24A)	Work Nos. 24 and 25
Cheshire and Chester West	10-04a	Temporary possession for traffic management	Work No. 25
Cheshire and Chester West	10-14 10-15	Temporary use as a construction access (as part of Work No.25)	Work Nos. 25, 26, 27, 28
Cheshire and Chester West	10-17	Temporary use as a construction access (Work No.28A)	Work Nos. 25, 26, 26A, 27, 28, 28A, 28B
Cheshire and Chester West	10-19	Temporary use as a construction access and working area (as part of Work Nos.25, 26, 26A and 27)	Work Nos. 25, 26, 26A, 27 and 28
Cheshire and Chester West	11-01, 11-02	Temporary use as a construction access (Work No.28A)	Work Nos. 25, 26, 26A, 27, 28, 28A, 28B
Flintshire	12-12a, 12-13	Temporary use as a construction compound and working area (as part of Work Nos. 29A and 30A)	Work Nos. 28, 29, 29A, 30 and 30A
Flintshire	12-15, 12-16, 12-17	Temporary use as a construction access (Works No.30 and 30A)	Work Nos. 28, 29, 29A, 30 and 30A
Flintshire	13-14, 13-16	Temporary use as a construction compound and working area (as part of Work No. 30D)	Work Nos. 30 and 31
Flintshire	13-19	Temporary use as a construction access (as part of Work No.30E)	Work Nos. 30 and 31

Flintshire	14-01	Temporary use as a construction compound and working area (as part of Work No. 30D)	Work Nos. 30 and 31
Flintshire	14-14	Temporary use as a construction compound and working area (as part of Work Nos. 31A and 31B)	Work Nos. 30, 31, 32 and 33
Flintshire	14-23, 14-24, 14-25, 14-26, 14-27	Temporary use as a construction access and working area (as part of Work No. 31B)	Work Nos. 30, 31, 31A, 32 and 33
Flintshire	14-30a, 15-01a	Temporary use as a construction access (as part of Work No.33)	Work No. 33
Flintshire	15-02	Temporary use as a construction access and working area (as part of Work No.33)	Work Nos.32, 33 and 33A
Flintshire	16-01, 16-06, 16-06a, 16-07, 16-08, 16-09, 16-11	Temporary use as a construction access and working area, and for diversion of public right of way and watercourse (as part of Work No. 34)	Work Nos. 33 and 34
Flintshire	16-17	Temporary use as a working area (as part of Work No. 34)	Work Nos. 34 and 35
Flintshire	16-28	Temporary use as a construction working area and access (Work No.35)	Work Nos. 35, 36, 36A and 37
Flintshire	17-05	Temporary use as a construction access and working area (as part of Work Nos. 35 and 36A)	Work Nos. 35, 36, 36A and 37
Flintshire	17-09, 17-10	Temporary use as a construction access (Work No.38A)	Work Nos. 35, 36, 36A and 37
Flintshire	17-11	Temporary use as a working area (as part of Work No. 38)	Work Nos. 37 and 38
Flintshire	17-16	Temporary use as a construction working area and access (as part of Work No.39B)	Work Nos. 38, 39, 40 and 57H
Flintshire	17-31	Temporary use as a construction access (Work No.39A)	Work Nos. 39, 40 and 57H
Flintshire	17-35, 17-37, 17-38	Temporary use as a construction access and working area (Work No. 40A)	Work Nos. 39, 40 and 57H
Flintshire	18-01	Temporary use as a working area, access and public right of way diversion (as part of Work No. 40B)	Work Nos.40, 41 and 57I
Flintshire	18-13	Temporary use as a construction compound, working area and access (as part of Work Nos. 41A and 41B)	Work Nos. 40, 41, 42 and 57I
Flintshire	18-16, 18-17	Temporary use as a construction access and visibility splay (as part of Work No.41B)	Work Nos. 40, 41, 42 and 57I
Flintshire	19-04c	Temporary use as a working area (as part of Work No. 43D)	Work Nos. 42, 43, 57J and 57K
Flintshire	20-07	Temporary use as a working area (as part of Work No. 44)	Work Nos. 44 and 57L

Flintshire	20-10, 20-10a	Temporary use as a construction access (as part of Work No.44B)	Work Nos. 44, 44A, 45, 46, 57L and 57M
Flintshire	20-16, 20-17	Temporary use as a construction access (as part of Work No.46)	Work Nos. 44, 44A, 45 and 46
Flintshire	20-19b	Temporary use as a construction access (as part of Work No.45)	Work Nos. 44, 45 and 45B
Flintshire	20-20	Temporary use as a construction compound and working area (as part of Work Nos. 44C and 45A)	Work Nos. 44, 44A, 45, 46, 57L and 57M
Flintshire	21-03	Temporary use as a construction access (Work No.47A)	Work No. 47
Flintshire	21-07	Temporary use as a construction access (Work No.47B)	Work No. 47 and 48
Flintshire	22-02	Temporary use as a working area and access (as part of Work No. 47)	Work Nos. 47 and 48
Flintshire	22-04	Temporary use for and to construct an access (Work No.49)	Work No. 47, 48 and 49
Flintshire	25-03, 25-07, 25-08, 25-09	Temporary use as a working area (as part of Work Nos. 51a, 51B and 52)	Work Nos. 51, 51A and 52
Flintshire	27-02, 28-01	Temporary use as a working area (as part of Work Nos. 53A and 53B)	Work Nos. 53, 53A and 54
Flintshire	28-02	Temporary use for and to construct an access (Work No.54)	Work Nos. 53, 53A and 54
Flintshire	29-01	Temporary use for and to construct an access (Work No.56)	Work Nos. 55, 55A and 56
Flintshire	29-02	Temporary use as a working area (as part of Work No. 55B)	Work Nos. 55, 55A and 56
Flintshire	29-06	Temporary use as a working area (as part of Work Nos. 55A and 55B)	Work Nos. 55, 55A and 56

## PART 2

### Land of which only temporary possession for access may be taken

<i>(1) Area</i>	<i>(2) Number of plot shown on land plans</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>(4) Relevant part of authorised development</i>
Cheshire and Chester West	2-06	Temporary use for access (as part of Work No.5A)	Work Nos 2, 3, 4, 5 and 6
Cheshire and Chester West	9-24, 9-25	Temporary use as a construction access (as part of Work No.24A)	Work Nos. 24 and 25
Flintshire	13-13, 13-15, 13-17, 13-18, 14-02, 14-03	Temporary use as a construction access (as part of Work No.30E)	Work Nos. 30, 30D 31, 31A, 32 and 33

Flintshire	17-34	Temporary use for access (as part of Work No.40)	Work Nos. 39, 39A, 40, 40A, 41, 57H and 57I
Flintshire	19-06	Temporary use as a construction access (as Work No.43C)	Work Nos. 42, 43, 44, 57J and 57K

## SCHEDULE 8

Article 26

### Land in which only new rights etc., may be acquired

*(1) Number of plot shown on land plans*      *(2) Purpose for which rights may be acquired*

1-01	Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—
1-01a	
1-02	(a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and replacing the authorised development, the inspection, testing, maintenance, renewal, upgrading, replacement and removal of the pipeline and connection into any adjacent pipeline and associated works, to take plant and equipment on to adjoining land;
1-03	
1-04	
1-06	
1-06a	
1-06b	
1-06c	
1a-01	(b) make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights;
1a-02	
1a-03	(c) use, maintain and improve a means of access including visibility splays, and retain, maintain, repair, alter, upgrade and use existing access routes for the purposes of accessing the Land, adjoining land and highway;
1a-04	
12-21	
13-01	(d) install, alter, re-lay, maintain, protect, adjust, operate or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus, public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers and pipes, cables or conduits or apparatus to serve the authorised development);
13-02	
13-03	
13-04	
13-05	
13-06	
13-10	
13-11	
14-21	(e) construct, lay down, use and remove temporary access roads or road surfacing including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal of any drainage work is being carried out;
14-22	
	(f) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary barriers for the protection of fauna; and
	(g) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land in accordance with any necessary licences relating to protected species and/or wildlife.

A restrictive covenant over the Land for the benefit of the remainder of the Order land to prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or telecommunications through the cables ancillary to the pipeline, or support for the authorised development.

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3-04	Rights for the purposes of the construction, installation, operation, maintenance
3-05	and decommissioning of the authorised development to—
3-06	(a) pass and re-pass with or without vehicles, plant, machinery, apparatus,
3-07	equipment and materials for the purposes of laying down, installing,
3-08	adjusting, altering, constructing, using, maintaining, repairing, renewing,
3-09	inspecting, removing and replacing the authorised development, the
3-10	inspection, testing, maintenance, renewal, upgrading, replacement and
	removal of the pipeline and connection into any adjacent pipeline and
	associated works, to take plant and equipment on to adjoining land;
	(b) make such investigations in or on the Land which is ancillary for the
	purposes of exercise of the rights;
	(c) maintain, straighten, widen, repair, alter, upgrade and use existing access
	routes for the purposes of accessing the Land, adjoining land and highway;
	(d) install, alter, re-lay, maintain, protect, adjust, operate or remove pipes,
	cables or conduits or apparatus including but not limited to electricity
	poles, electricity pylons, electricity masts, overhead electricity lines,
	telecommunications cables and any ancillary equipment and apparatus,
	public and private drains, connections to watercourses, sewers, ponds or
	culverts, service media (including the pipes, cables or conduits or
	apparatus of statutory undertakers and pipes, cables or conduits or
	apparatus to serve the authorised development);
	(e) remove and discharge water from the Land and to install, retain, use,
	maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect
	and improve sewers, drains, pipes, ducts, mains, conduits, flues and to
	drain into and manage waterflows in any drains, watercourses and
	culverts, to lay down, install, adjust, alter, construct, create, use, maintain,
	repair, renew, upgrade, inspect, remove and replace a drainage scheme on
	the Land (the “drainage works”);
	(f) inspect, use mechanical excavation (including directional drilling and/or
	digging), reinstate, remove, move or alter such part or parts of any
	drainage system on the Land for the purposes of the drainage works
	(including connecting the drainage works to any land drain as at the date
	of the drainage works);
	(g) place and use plant, machinery, structures and temporary structures within
	the Land, and to erect temporary signage and provide measures for the
	benefit of public and personnel safety for the purposes of the drainage
	works;
	(h) make such investigations in or on the Land as required for the purposes of
	the drainage works;
	(i) use or resort to trenchless installation techniques including (but not limited
	to) directional drilling in connection with the drainage works;
	(j) erect fencing, gates, walls, barriers or other means of enclosure, and create
	secure works areas or compounds including temporary trenchless
	installation technique compounds and working areas for the purposes of
	the drainage works;
	(k) construct, lay down, use and remove temporary access roads including
	any necessary hard standing and other surface materials including (but not
	limited to) matting, aggregate, trackway, stone, tarmacadam, terram,
	temporary bridging, culverting or diversion of water courses and drains
	during any period during which construction, maintenance, repair or
	renewal of any drainage work is being carried out;

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- (l) fell, lop or cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be standing on the Land or other land which would if not felled, lopped, cut or removed obstruct or interfere with the drainage works;
  - (m) retain, repair, improve, renew, remove, relocate and plant trees, shrubs, and hedgerows, to effect landscaping works and other environmental and ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping;
  - (n) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna; and
  - (o) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land in accordance with any necessary licences relating to protected species and/or wildlife.

A restrictive covenant over the Land for the benefit of the remainder of the Order land to:

- (p) prevent any activity being undertaken on the Land which would interfere with the vertical or lateral support of the Pipeline;
- (q) prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or telecommunications through the cables ancillary to the pipeline, or support for the authorised development;
- (r) prevent, without the written consent of the undertaker, the carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development; and
- (s) prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of the drainage works, ecological mitigation areas or areas of habitat creation including any ploughing or grazing without the prior written consent of the undertaker.

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1-21 2-02a 2-04a 5-08 6-27 7-02b 7-03 7-03a 11-07 12-04 12-06 14-11 14-14a 14-20 15-02a 15-09 15-10 15-14 16-28a	Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—
	<ul style="list-style-type: none"> <li>(a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and replacing the authorised development, the inspection, testing, maintenance, renewal, upgrading, replacement and removal of the pipeline and connection into any adjacent pipeline and associated works, to take plant and equipment on to adjoining land;</li> <li>(b) make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights;</li> <li>(c) maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the Land, adjoining land and highway; effect access to the highway including to construct, use, maintain and improve a permanent means of access including visibility splays, and retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the Land, adjoining land and highway;</li> </ul>

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16-29 16-30 17-17 17-18 17-19 20-09	<ul style="list-style-type: none"> <li>(d) install, alter, re-lay, maintain, protect, adjust, operate or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers and pipes, cables or conduits or apparatus to serve the authorised development);</li> <li>(e) remove and discharge water from the Land and to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, to lay down, install, adjust, alter, construct, create, use, maintain, repair, renew, upgrade, inspect, remove and replace a drainage scheme on the Land (the “drainage works”);</li> <li>(f) inspect, use mechanical excavation (including directional drilling and/or digging), reinstate, remove, move or alter such part or parts of any drainage system on the Land for the purposes of the drainage works (including connecting the drainage works to any land drain as at the date of the drainage works);</li> <li>(g) place and use plant, machinery, structures and temporary structures within the Land, and to erect temporary signage and provide measures for the benefit of public and personnel safety for the purposes of the drainage works;</li> <li>(h) make such investigations in or on the Land as required for the purposes of the drainage works;</li> <li>(i) use or resort to trenchless installation techniques including (but not limited to) directional drilling in connection with the drainage works;</li> <li>(j) erect fencing, gates, walls, barriers or other means of enclosure, and create secure works areas or compounds including temporary trenchless installation technique compounds and working areas for the purposes of the drainage works;</li> <li>(k) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal of any drainage work is being carried out;</li> <li>(l) fell, lop or cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be standing on the Land or other land which would if not felled, lopped, cut or removed obstruct or interfere with the drainage works;</li> <li>(m) install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodland, shrubs, hedgerows, seeding, to effect landscaping works and other environmental and ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping;</li> <li>(n) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna; and</li> </ul>
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- (o) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land in accordance with any necessary licences relating to protected species and/or wildlife.

A restrictive covenant over the Land for the benefit of the remainder of the Order land to:

- (p) prevent any activity being undertaken on the Land which would interfere with the vertical or lateral support of the Pipeline;
- (q) prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or telecommunications through the cables ancillary to the pipeline, or support for the authorised development;
- (r) prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development; and
- (s) prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of the drainage works, ecological mitigation areas or areas of habitat creation including any ploughing or grazing without the prior written consent of the undertaker.

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6-07 6-08 6-09	Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—
	<ul style="list-style-type: none"><li>(a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and replacing the authorised development, the inspection, testing, maintenance, renewal, upgrading, replacement and removal of the pipeline and connection into any adjacent pipeline and associated works, to take plant and equipment on to adjoining land;</li><li>(b) make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights;</li><li>(c) maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the Land, adjoining land and highway; effect access to the highway including to construct, use, maintain and improve a permanent means of access including visibility splays, and retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the Land, adjoining land and highway;</li><li>(d) place and use plant, machinery, structures and temporary structures within the Land, and to erect temporary signage and provide measures for the benefit of public and personnel safety for the purposes of the drainage works;</li><li>(e) erect fencing, gates, walls, barriers or other means of enclosure, and create secure works areas or compounds including temporary trenchless installation technique compounds and working areas for the purposes of the drainage works;</li><li>(f) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal of any drainage work is being carried out;</li></ul>

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- (g) fell, lop or cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be standing on the Land or other land which would if not felled, lopped, cut or removed obstruct or interfere with the drainage works;
  - (h) remove and relocate trees, shrubs, hedgerows,;
  - (i) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna; and
  - (j) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land in accordance with any necessary licences relating to protected species and/or wildlife.

A restrictive covenant over the Land for the benefit of the remainder of the Order land to prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or telecommunications through the cables ancillary to the pipeline, or support for the authorised development.

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28-03

Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—

- (a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and replacing the authorised development, the inspection, testing, maintenance, renewal, upgrading, replacement and removal of the pipeline and connection into any adjacent pipeline and associated works, to take plant and equipment on to adjoining land;
  - (b) make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights;
  - (c) place and use plant, machinery, structures and temporary structures within the Land, and to erect temporary signage and provide measures for the benefit of public and personnel safety for the purposes of the drainage works;
  - (d) erect fencing, gates, walls, barriers or other means of enclosure, and create secure works areas or compounds including temporary trenchless installation technique compounds and working areas for the purposes of the drainage works;
  - (e) install, alter, re-lay, maintain, protect, adjust, operate or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers and pipes, cables or conduits or apparatus to serve the authorised development);
  - (f) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal of any drainage work is being carried out;
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- (g) install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodland, shrubs, hedgerows, seeding, to effect landscaping works and other environmental and ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping;
  - (h) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna; and
  - (i) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the Land in accordance with any necessary licences relating to protected species and/or wildlife.

A restrictive covenant over the Land for the benefit of the remainder of the Order land to:

- (j) prevent any activity being undertaken on the Land which would interfere with the vertical or lateral support of the Pipeline;
- (k) prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or telecommunications through the cables ancillary to the pipeline, or support for the authorised development;
- (l) prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development; and
- (m) prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of the ecological or environmental mitigation areas without the prior written consent of the undertaker.

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9-04  
16-03a

Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of surveying or investigating the land.

A restrictive covenant over the Land for the benefit of the remainder of the Order land to:

- (a) prevent any activity being undertaken on the Land which would interfere with the vertical or lateral support of the Pipeline;
  - (b) prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or telecommunications through the cables ancillary to the pipeline, or support for the authorised development; and
  - (c) prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development.
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## Modification of compensation and compulsory purchase enactments for creation of new rights

### Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or imposition of a restrictive covenant as they apply as respects compensation for the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the following modification-

(2) For section (5A) (relevant valuation date) of the 1961 Act substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the Compulsory Purchase Act 1965 (as modified by paragraph 5(5) of Schedule 9 to the HyNet Carbon Dioxide Pipeline Order 202[•]).
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the Compulsory Purchase Act 1965 (as substituted by paragraph 4(8) of Schedule 9 to the HyNet Carbon Dioxide Pipeline Order 202[•]) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of sub-section (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.

(2) Without limitation on the scope of paragraph (1), the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

3.—(1) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3) of this Schedule—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable.”

### Application of Part 1 of the 1965 Act

3.—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 32 (modification of Part 1 of the 1965 Act) to the acquisition of land under article 24 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 26 (compulsory acquisition of rights and restrictive covenants)—

- (a) with the modifications specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

4.—(1) The modifications referred to in sub-paragraph (1) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(3) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land);

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11 (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restriction, as well as the notice of entry required by sub-section (1) of that section (as it applies to a compulsory acquisition), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A(a) (powers of entry: further notices of entry), 11B(b) (counter-notice requiring possession to be taken on specified date), 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20 (tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 32(4) is also modified so as to enable the acquiring authority in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

(8) For Schedule 2A of the 1965 Act substitute—

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(a) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c.22).  
(b) Section 11B was inserted by section 187(2) of the above Act.

## Counter-notice requiring purchase of land not in notice to treat

### Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or a restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article 30 (application of the 1981 Act) of the HyNet Carbon Dioxide Pipeline Order 202[•] in respect of the land to which the notice to treat relates.

(2) But see article 31 (acquisition of subsoil or airspace only) of the HyNet Carbon Dioxide Pipeline Order 202[•] which excludes the acquisition of subsoil only from this Schedule.

(3) In this Schedule, “house” includes any park or garden belonging to a house.

### Counter-notice requiring purchase of land

2. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

3. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

### Response to counter-notice

4. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat;
- (b) accept the counter-notice; or
- (c) refer the counter-notice to the Upper Tribunal.

5. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

6. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

7. If the authority do not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

8. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

### Determination by the Upper Tribunal

9. On a referral under paragraph (6), the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory; or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

10. In making the determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant;
- (b) the use to be made of the right or covenant proposed to be acquired or imposed; and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

**11.** If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 9, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

**12.** If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

**13.—**(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of six weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawing of the notice.

**14.** Any dispute as to the compensation is to be determined by the Upper Tribunal.”

## SCHEDULE 10

Article 42

### Protective provisions

#### PART 1

##### Protection for electricity, gas, water and sewerage undertakers

**1.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the utility undertaker in question.

**2.** In this Part—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of a utility undertaker within paragraph (a) of the definition of that term, electric lines or electrical plant (as defined in the Electricity Act 1989<sup>(a)</sup>), belonging to or maintained by that licence holder;
- (b) in the case of a utility undertaker within paragraph (b) of the definition of that term, any mains, pipes or other apparatus belonging to or maintained by that gas transporter within the meaning of Part 1 of the Gas Act 1986<sup>(b)</sup> for the purposes of gas supply;
- (c) in the case of a utility undertaker within paragraph (c) of the definition of that term, mains, pipes or other apparatus belonging to or maintained by that water undertaker for the purposes of water supply; and
- (d) in the case of a utility undertaker within paragraph (d) of the definition of that term—

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(a) 1989 c.29.  
(b) 1986 c.44.

- (i) any drain or works vested in the sewerage undertaker under the Water Industry Act 1991<sup>(a)</sup>; and
- (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewerage disposal works, at future date) of that Act<sup>(b)</sup>,

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed; and

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
  - (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
  - (c) a water undertaker within the meaning of the Water Industry Act 1991; and
  - (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,
- for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

### **On street apparatus**

3. This Part does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

### **Acquisition of land**

4. Regardless of any provision of this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

### **Removal of apparatus**

5.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker’s apparatus is relocated or diverted, that apparatus must not be removed under this Part, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days’ written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed; and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to

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(a) 1991 c.56.

(b) Section 104 was amended by section 42(3) of the Flood and Water Management Act 2010 (c.29).

remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 48 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 48 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

### **Facilities and rights for alternative apparatus**

**6.—**(1) Where, in accordance with the provisions of this Part, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 48 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along the authorised development, the arbitrator must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus that may be required to prevent interference with any proposed works of the undertaker; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the authorised project for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such



provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus**

7.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 5(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, the provisions of this Part apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

### **Expenses and costs**

8.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses agreed with the undertaker in advance and reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 5(2).

(2) The value of any apparatus removed under the provisions of this Part must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 48 (arbitration) to be necessary then, if such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

**9.—**(1) Subject to sub-paragraph (2), if by reason or in consequence of the construction of any such works referred to in paragraph 5(2) any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
  - (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,
- by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

## **Miscellaneous**

**10.** Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

## **PART 2**

### **Protection for operators of electronic communications code networks**

**11.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the operator in question.

**12.** In this Part—

“the 2003 Act” means the Communications Act 2003(a);

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in section 106(b) (application of the electronic communications code) of the 2003 Act;

“electronic communications code network” means—

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(a) 2003 c.21.

(b) Section 106 was amended by section 4 of the Digital Economy Act 2017.

- (a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the undertaker is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

“infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7 (infrastructure system) of that code; and

“operator” means the operator of an electronic communications code network.

**13.** The exercise of the powers conferred by article 36 (statutory undertakers) are subject to Part 10 (undertaker’s works affecting electronic communications apparatus) of the electronic communications code.

**14.—(1)** Subject to sub-paragraphs (2) to (4), if as a result of the authorised development or its construction, or of any subsidence resulting from the authorised development—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development), or other property of an operator; or
- (b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost agreed by the undertaker in advance and reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part must be referred to and settled by arbitration under article 48 (arbitration).

(5) This Part does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised project.

(6) Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

## PART 3

### For the protection of National Grid as electricity undertaker

#### Application

**15.**—(1) For the protection of National Grid as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid, where the benefit of this Order is transferred or granted to another person under article 7 (benefit of Order) -

- (a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Grid and the transferee or grantee (as the case may be); and
- (b) written notice of the transfer or grant must be given to National Grid on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid (but without prejudice to paragraph 25(3)(b) of this Part of this Schedule).

#### Interpretation

**16.** In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“acceptable credit provider” means a bank or financial institution with a credit rating that is not lower than: (i) “A-” if the rating is assigned by Standard & Poor’s Ratings Group or Fitch Ratings; and “A3” if the rating is assigned by Moody’s Investors Services Inc.;

“acceptable insurance” means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000.00 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained for the duration of the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an “acceptable credit provider”, such insurance shall include (without limitation):

- (a) a waiver of subrogation and an indemnity to principal clause in favour of National Grid;
- (b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

“acceptable security” means either:

(a) a parent company guarantee from a parent company in favour of National Grid to cover the undertaker’s liability to National Grid to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Grid and where required by National Grid, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or

(b) a bank bond or letter of credit from an acceptable credit provider in favour of National Grid to cover the undertaker’s liability to National Grid for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Grid);

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Grid to enable National Grid to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any electric lines or electrical plant as defined in the Electricity Act 1989(a), belonging to or maintained by National Grid, together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Grid for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) of this Order and includes any ancillary works as defined in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” and “commencement” in this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Grid (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for National Grid’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“Incentive Deduction” means any incentive deduction National Grid Electricity Transmission plc receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised works;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid: construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Grid” means National Grid Electricity Transmission Plc (company number 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the Electricity Act 1989;

“NGESO” means as defined in the STC;

“parent company” means a parent company of the undertaker acceptable to and which shall have been approved by National Grid acting reasonably;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 21(2) or otherwise; and/or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 21(2) or otherwise; and/or
- (c) includes any of the activities that are referred to in National Grid's document "Development near overhead lines" EN43-8 and the Health and Safety Executive's (HSE) Guidance Note GS6 "Avoiding Danger from Overhead Power Lines";

"STC" means the System Operator Transmission Owner Code prepared by the electricity Transmission Owners and NGENSO as modified from time to time;

"STC Claims" means any claim made under the STC against National Grid Electricity Transmission plc arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector's equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid Electricity Transmission plc's transmission system which arises as a result of the authorised works;

"Transmission Owner" means as defined in the STC;

"undertaker" means the undertaker as defined in article 2(1) of this Order.

### **On Street Apparatus**

17. Except for paragraphs 18 (Apparatus of statutory undertakers in temporarily restricted streets), 23 (retained apparatus: protection of electricity undertaker) and 24 (expenses) of this Part of this Schedule, which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid, the other provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

### **Apparatus of statutory undertakers in temporarily restricted streets**

18. Despite the temporary stopping up or diversion of any highway under article 14 (temporary restriction of use of streets), National Grid may at all times take all necessary access across any such highway and execute and do all such works and things in, on or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the restriction or diversion was in that highway.

### **Protective works to buildings**

19. The undertaker, in the case of the powers conferred by article 22 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid.

### **Acquisition of land**

20.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Grid unless agreed by National Grid.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid or affect the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the

undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) Save where otherwise agreed in writing between National Grid and the undertaker, the undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid and/or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by National Grid under paragraph 23 (Retained apparatus: protection of electricity undertaker) or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub- paragraph (1).

### **Removal of apparatus**

**21.**—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub- paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid to its reasonable satisfaction (taking into account paragraph 22(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

## **Facilities and rights for alternative apparatus**

22.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter may be referred to arbitration in accordance with paragraph 29 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

## **Retained apparatus: protection of electricity undertaker**

23.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity assets.

(2) In relation to specified works, the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes;
- (g) an assessment of risks of rise of earth issues; and
- (h) a ground monitoring scheme, where required.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing; —

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;
- (d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;
- (f) written details of the operations and maintenance regime for any cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by National Grid's engineers; and



(h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of at least 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid has given written approval of the plan so submitted.

(5) Any approval of National Grid required under sub-paragraph (4)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,

(b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(8) Where National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction, prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required and National Grid must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 5 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 21(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (12) at all times.

(12) At all times when carrying out any works authorised under the Order, the undertaker must comply with National Grid's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

## **Expenses**

**24.**—(1) Save where otherwise agreed in writing between National Grid and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

- (a) any costs reasonably and properly incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 21(3); or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 29 (Arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Where in accordance with sub-paragraph (1) the undertaker pays National Grid in respect of an itemised invoice or claim for charges, costs and expenses reasonably anticipated within the following three months, should there be any unspent funds after the expiry of such three month period, National

Grid shall repay such unspent funds within 60 days of the total charges, costs and expenses actually reasonably and properly incurred being known by National Grid.

### **Indemnity**

**25.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, and provided that at all times National Grid will be under an obligation to take reasonable steps to mitigate its loss, the undertaker will—

- (a) bear and pay on demand accompanied by an appropriately detailed invoice or appropriately detailed claim from National Grid the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and
- (b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party and including STC Claims or an Incentive Deduction other than arising from any default of National Grid.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Grid fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents;
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Grid as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 7 (benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-section 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 25; and/or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable;

(4) National Grid must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Grid must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Grid must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it

is within National Grid's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid's control and if reasonably requested to do so by the undertaker National Grid must provide an explanation of how the claim has been minimised, where relevant.

(7) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by National Grid or in respect of which National Grid has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Grid's apparatus until the following conditions are satisfied:

- (a) unless and until National Grid is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid has confirmed the same to the undertaker in writing; and
- (b) unless and until National Grid is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Grid that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with 11(7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Grid from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

### **Enactments and agreements**

**26.** Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Grid and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

**27.—**(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid requires the removal of apparatus under paragraph 21(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 23, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Grid's undertaking and National Grid must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Grid's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed, and any action, decision, cost and/or expense which may be claimed under this Part of this Schedule shall at all times be subject to National Grid acting reasonably.

### **Access**

**28.** If in consequence of the agreement reached in accordance with paragraph 20(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

## **Arbitration**

29. Save for differences or disputes arising under paragraph 21(2), 21(4), 22(1) and 23 any difference or dispute arising between the undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 48 (arbitration).

## **Notices**

30. Notwithstanding article 45 (service of notices), any plans submitted to National Grid by the undertaker pursuant to this Part must be submitted using the LSBUD system (<https://lsbud.co.uk/>) or to such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

# **PART 4**

## **For the protection of National Grid as gas undertaker**

### **Application**

31.—(1) For the protection of National Gas Transmission as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Gas Transmission.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Gas Transmission, where the benefit of this Order is transferred or granted to another person under article 7 (benefit of Order)—

- (a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Gas Transmission and the transferee or grantee (as the case may be); and
- (b) written notice of the transfer or grant must be given to National Gas Transmission on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Gas Transmission (but without prejudice to paragraph 41(3)(b) of this Part of this Schedule).

### **Interpretation**

32.—(1) In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“acceptable credit provider” means a bank or financial institution with a credit rating that is not lower than: “A-” if the rating is assigned by Standard & Poor’s Ratings Group or Fitch Ratings; and “A3” if the rating is assigned by Moody’s Investors Services Inc.;

“acceptable insurance” means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000.00 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained for the duration of the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an “acceptable credit provider”, such insurance shall include (without limitation):

- (a) a waiver of subrogation and an indemnity to principal clause in favour of National Grid
- (b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than

£10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

“acceptable security” means either:

- (a) parent company guarantee from a parent company in favour of National Gas Transmission to cover the undertaker’s liability to National Gas Transmission to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Gas Transmission and where required by National Gas Transmission, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or
- (b) a bank bond or letter of credit from an acceptable credit provider in favour of National Gas Transmission to cover the undertaker’s liability to National Gas Transmission for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Gas Transmission);

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Gas Transmission to enable National Gas Transmission to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any mains, pipes or other apparatus belonging to or maintained by National Gas Transmission for the purposes of gas supply together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Gas Transmission for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) of this Order and includes any ancillary works as defined in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” and “commencement” in this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Gas Transmission (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for National Gas Transmission’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Gas Transmission: construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Gas Transmission” means National Gas Transmission plc (company number 02006000) whose registered office is at National Grid House Warwick Technology Park, Gallows Hill, Warwick, CV34 6DA or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986 ;

“Network Code” means the network code prepared by National Gas Transmission pursuant to Standard Special Condition A11(3) of its Gas Transporter’s Licence, which incorporates the Uniform Network Code, as defined in Standard Special Condition A11(6) of National Gas Transmission's Transporters Licence, as both documents are amended from time to time;

“Network Code Claims” means any claim made against National Gas Transmission by any person or loss suffered by National Gas Transmission under the Network Code arising out of or in connection with any failure by National Gas Transmission to make gas available for off take at, or a failure to accept gas tendered for delivery from, any entry point to or exit point from the gas national transmission system as a result of the authorised works or any costs and/or expenses incurred by National Gas Transmission as a result of or in connection with, it taking action (including purchase or buy back of capacity) for the purpose of managing constraint or potential constraint on the gas national transmission system which may arise as a result of the authorised works;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“parent company” means a parent company of the undertaker acceptable to and which shall have been approved by National Gas Transmission acting reasonably;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 37(2) or otherwise; and/or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 37(2) or otherwise; and/or
- (c) includes any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (National Gas Transmission’s policies for safe working in proximity to gas apparatus, “Specification for safe working in the vicinity of National Grid, High Pressure Gas pipelines and associated installations- requirements for third parties”); and

“undertaker” means the undertaker as defined in article 2(1) of this Order.

### **On Street Apparatus**

33. Except for paragraphs 34 (Apparatus of statutory undertakers in temporarily restricted streets), 39 (retained apparatus: protection of gas undertaker), 40 (expenses) and 41 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Gas Transmission, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Gas Transmission are regulated by the provisions of Part 3 of the 1991 Act.

### **Apparatus of statutory undertakers in temporarily restricted streets**

34. Despite the temporary stopping up or diversion of any highway under article 14 (temporary restriction of use of streets), National Gas Transmission may at all times take all necessary access across any such highway and execute and do all such works and things in, on or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the restriction or diversion was in that highway.

### **Protective works to buildings**

35. The undertaker, in the case of the powers conferred by article 22 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Gas Transmission.

### **Acquisition of land**

36.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Gas Transmission unless agreed by National Gas Transmission.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Gas Transmission and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Gas Transmission or affect the provisions of any enactment or agreement regulating the relations between National Gas Transmission and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Gas Transmission reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Gas Transmission and the undertaker acting reasonably and which must be no less favourable on the whole to National Gas Transmission unless otherwise agreed by National Gas Transmission, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) Save where otherwise agreed in writing between National Gas Transmission and the undertaker, the undertaker and National Gas Transmission agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Gas Transmission and/or other enactments relied upon by National Gas Transmission as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by National Gas Transmission under paragraph 39 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

### **Removal of apparatus**

37.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Gas Transmission to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Gas Transmission in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Gas Transmission advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Gas Transmission reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Gas Transmission to its reasonable satisfaction (taking into account paragraph 38(1) below) the necessary facilities and rights—

(a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and



(b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Gas Transmission may, in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Gas Transmission to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Gas Transmission and the undertaker.

(5) National Gas Transmission must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Gas Transmission of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

#### **Facilities and rights for alternative apparatus**

**38.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Gas Transmission facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Gas Transmission and must be no less favourable on the whole to National Gas Transmission than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Gas Transmission.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Gas Transmission than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter may be referred to arbitration in accordance with paragraph 45 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Gas Transmission as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

#### **Retained apparatus: protection of gas undertaker**

**39.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Gas Transmission a plan and, if reasonably required by National Gas Transmission, a ground monitoring scheme in respect of those works.

(2) In relation to specified works, the plan to be submitted to National Gas Transmission under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until National Gas Transmission has given written approval of the plan so submitted.

(4) Any approval of National Gas Transmission required under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and,

(b) must not be unreasonably withheld.

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, National Gas Transmission may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works executed under sub-paragraphs (1) or (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub paragraph (5), as approved or as amended from time to time by agreement between the undertaker and National Gas Transmission and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by National Gas Transmission for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Gas Transmission will be entitled to watch and inspect the execution of those works.

(7) Where National Gas Transmission requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Gas Transmission's satisfaction, , prior to the commencement of any specified works for which protective works are required and National Gas Transmission must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If National Gas Transmission in accordance with sub-paragraphs (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 31 to 33 and 35 to 37 apply as if the removal of the apparatus had been required by the undertaker under paragraph 37(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Gas Transmission notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with National Gas Transmission's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and 69 associated installation requirements for third parties T/SP/SSW22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that National Gas Transmission retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 40.

## **Expenses**

**40.**—(1) Save where otherwise agreed in writing between National Gas Transmission and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Gas Transmission within 30 days of receipt of an itemised invoice or claim from National Gas Transmission all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Gas Transmission in, or in connection with,

the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

- (a) any costs reasonably and properly incurred by or compensation properly paid by National Gas Transmission in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Gas Transmission as a consequence of National Gas Transmission;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 37(3); or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Gas Transmission;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 45 (Arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Gas Transmission by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Gas Transmission in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Gas Transmission any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Where in accordance with sub-paragraph (1) the undertaker pays National Gas Transmission in respect of an itemised invoice or claim for charges, costs and expenses reasonably anticipated within the following three months, should there be any unspent funds after the expiry of such three month period National Gas Transmission shall repay such unspent funds within 60 days of the total charges, costs and expenses actually reasonably and properly incurred being known, and include an itemised accounting of the charges, costs and expenses reasonably and properly incurred for the three months following the issue of the itemised invoice or claim.

### **Indemnity**

**41.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Gas Transmission, or there is any interruption in any service provided, or in the supply of any goods or energy, by National Gas Transmission, or National Gas Transmission becomes liable to pay any amount to any third party, and provided that at all times National Gas Transmission will be under an obligation to take reasonable steps to mitigate its loss, the undertaker will—

- (a) bear and pay on demand accompanied by an appropriately detailed invoice or appropriately detailed claim from National Gas Transmission the cost reasonably and properly incurred by National Gas Transmission in making good such damage or restoring the supply; and
- (b) indemnify National Gas Transmission for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Gas Transmission, by reason or in consequence of any such damage or interruption or National Gas Transmission becoming liable to any third party and including Network Code Claims other than arising from any default of National Gas Transmission.

(2) The fact that any act or thing may have been done by National Gas Transmission on behalf of the undertaker or in accordance with a plan approved by National Gas Transmission or in accordance with any requirement of National Gas Transmission or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Gas Transmission fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Gas Transmission, its officers, servants, contractors or agents;
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Gas Transmission as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article (benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-section 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 41; and/or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable;

(4) National Gas Transmission must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is

required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Gas Transmission must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Gas Transmission must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Gas Transmission's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Gas Transmission's control and if reasonably requested to do so by the undertaker National Gas Transmission must provide an explanation of how the claim has been minimised, where relevant.

(7) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by National Gas Transmission or in respect of which National Gas Transmission has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Gas Transmission's apparatus until the following conditions are satisfied:

- (a) unless and until National Gas Transmission is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Gas Transmission has confirmed the same to the undertaker in writing; and
- (b) unless and until National Gas Transmission is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Gas Transmission that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Gas Transmission has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with 11(7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Gas Transmission from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

### **Enactments and agreements**

**42.** Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Gas Transmission and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Gas Transmission in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

**43.—(1)** Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Gas Transmission requires the removal of apparatus under paragraph 7(2) or National Gas Transmission makes requirements for the protection or alteration of apparatus under paragraph 39, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Gas Transmission's undertaking and National Gas Transmission must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Gas Transmission's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed, and any action, decision, cost and/or expense which may be claimed under this Part of this Schedule shall at all times be subject to National Gas Transmission acting reasonably.

## **Access**

44. If in consequence of the agreement reached in accordance with paragraph 36(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Gas Transmission to maintain or use the apparatus no less effectively than was possible before such obstruction.

## **Arbitration**

45. Save for differences or disputes arising under paragraph 37(2), 37(4), 38(1) and 39 any difference or dispute arising between the undertaker and National Gas Transmission under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Gas Transmission, be determined by arbitration in accordance with article 48 (arbitration).

## **Notices**

46. Notwithstanding article 45 (service of notices), any plans submitted to National Gas Transmission by the undertaker pursuant to this Part must be submitted to <https://lsbud.co.uk/> or such other address as National Gas Transmission may from time to time appoint instead for that purpose and notify to the undertaker in writing.

# **PART 5**

## **For the protection of Cadent Gas Limited**

## **Application**

47. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

## **Interpretation**

48. In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by Cadent for the purposes of Cadent’s undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent’s undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as is given in article 2(1) of the Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Schedule

“Cadent” means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“Cadent’s undertaking” means the rights, duties and obligations of Cadent Gas Limited as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995);

“commence” and “commencement” means carry out a material operation, as defined in section 155 of the 2008 Act (which explains when development begins), comprised in or for the purposes of the authorised development including (but not limited to) any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other

adverse ground condition, the erection of construction plant and equipment, other than erection of fencing to site boundaries or marking out of site boundaries, installation of amphibian and reptile fencing, or environmental mitigation measures, and “commencement”, “commenced” and cognate expressions are to be construed accordingly;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“facilities and rights” for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for Cadent’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” have effect as if Cadent’s existing apparatus was authorised development and as if the term maintain includes protect and use;

“parent company” means a parent company of the undertaker acceptable to Cadent and which shall have been approved by Cadent acting reasonably;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“protective works” means the underpinning, strengthening and any other works the purpose of which is to prevent damage to or interference with Cadent’s apparatus that may be caused by the carrying out, maintenance or use of the authorised development;

“rights” includes restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

“specified works” means any of the authorised development or activities (including maintenance) undertaken in association with the authorised development which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 53(2) or otherwise; or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 53(2) or otherwise.

### **On Street apparatus**

**49.**—(1) This Schedule does not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act, except for—

- (a) paragraphs 50, 55, and 57; and
- (b) where sub-paragraph (2) applies, paragraphs 53 and 54.

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

(3) The Protective Provisions in this Part of this Schedule apply and take precedence over article 36 (statutory undertakers) and 37 (recovery of costs of new connections) of the Order which shall not apply to Cadent.

### **Apparatus of Cadent in stopped up streets**

**50.**—(1) Where any street is stopped up under article 13 (temporary restriction of public rights of way), 14 (temporary restriction of use of streets), or Schedule 5 (streets to be temporarily stopped up or restricted), if Cadent has any apparatus in the street or accessed via that street Cadent is entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Cadent, or procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or highway, but nothing in this paragraph shall affect any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 53.

(2) Subject to sub-paragraph (3) below, and notwithstanding the temporary alteration, diversion or restriction of use of any street under the powers of article 13 (temporary restriction of public rights of way), 14 (temporary restriction of use of streets), or Schedule 5 (streets to be temporarily stopped up or restricted), Cadent will be at liberty at all times and at Cadent's own risk to take reasonable access across any such street and to execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary alteration, diversion or restriction in respect of any apparatus which at the time of the stopping up or diversion was in that street.

(3) In taking access pursuant to sub-paragraph (2) above, Cadent must:

- (a) Comply with any plans produced by the undertaker pursuant to its obligations under the Construction (Design and Management) Regulations 2015; and
- (b) Comply with all relevant health and safety legislation, guidance, protocols and procedures.

### **Protective works to buildings**

**51.**—(1) The undertaker must exercise the powers conferred by article 22 (protective work to buildings) so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent (such consent not to be unreasonably withheld or delayed) and if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in the view of its intended removal or abandonment) or property of Cadent or any interruption in the supply of gas by Cadent, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and, subject to sub-paragraph (2), shall-

- (a) pay compensation to Cadent for any reasonable loss sustained by it; and
- (b) indemnify Cadent against all claims, demands, proceedings, reasonable costs, damages and expenses which may be made or taken against or recovered from or incurred by Cadent, by reason of any such damage or interruption provided that at all times Cadent will be under an obligation to take all reasonable steps to mitigate its loss.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of Cadent or its contractors or workmen; and Cadent will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement, admission of liability or compromise thereof shall be made by Cadent, save in respect of any payment requirement under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.



## **Acquisition of land**

**52.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire from Cadent any interest in land or appropriate, acquire, extinguish, interfere with or override any easement or other interest in land of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out or maintenance of any part of the authorised development (or in such other timeframe as may be agreed between Cadent and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of Cadent or affect the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development or maintenance thereof.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule prevail.

(4) Any agreement or consent granted by Cadent under paragraph 55 or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement under sub-paragraph (1) that involves de-commissioned apparatus being left in situ Cadent must use reasonable endeavours to surrender its easement or other interest in land in respect of such decommissioned apparatus to the reversionary landowner. If Cadent is not released by the reversionary landowner from all liabilities in respect of such de-commissioned apparatus the undertaker shall take on such liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 53 do not apply, the undertaker must, unless Cadent agrees otherwise—

- (a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

## **Removal of apparatus**

**53.**—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 52, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed and any right of Cadent to maintain that apparatus in that land must not be extinguished or interfered with until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Cadent and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan

and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its reasonable satisfaction (taking into account paragraph 54(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and
- (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such position as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3), then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

### **Facilities and rights for alternative apparatus**

**54.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent (in Cadent's reasonable opinion) than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in Cadent's reasonable opinion), then the terms and conditions to which those facilities and rights are subject may be referred to arbitration in accordance with paragraph 60 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus: protection of Cadent**

**55.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until Cadent has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of Cadent given under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and
- (b) must not be unreasonably withheld or delayed and Cadent must meaningfully engage with the undertaker within 28 days of the date of submission of the plan under sub-paragraph (1).

(5) Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Specified works must only be executed in accordance with—

- (a) the plan submitted under sub-paragraph (1) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and Cadent; and
- (b) all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works.

(7) Where Cadent reasonably requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's reasonable satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(8) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 47 to 49 and 52 to 54 apply as if the removal of the apparatus had been required by the undertaker under paragraph 53(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development (including such an event attributable to its maintenance)—

- (a) the undertaker must implement an appropriate ground mitigation scheme; and
- (b) Cadent retains the right to carry out any further necessary protective works (in Cadent's reasonable opinion) for the safeguarding of its apparatus and can recover any such costs associated with the further protective works in line with paragraph 56.

(11) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances.

(12) In this paragraph, "emergency works" means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances

then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

## Expenses

**56.**—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand, all documented charges, costs and expenses reasonably anticipated or reasonably and properly incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised development including without limitation—

- (a) any costs reasonably and properly incurred by or compensation properly paid by Cadent in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all reasonable costs (including professional fees) incurred by Cadent as a consequence of Cadent;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 53(3) if it elects to do so; or
  - (ii) exercising any compulsory purchase powers under this Order transferred to or benefitting Cadent;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;
- (g) any watching brief pursuant to sub-paragraph 55(6).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 48 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Cadent in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Where Cadent demands payment of reasonably anticipated charges, costs and expenses pursuant to sub-paragraph (1), Cadent must provide the undertaker with an itemised invoice or claim detailing such charges, costs, and expenses reasonably anticipated to fall due within the following three months of such a demand. The undertaker shall pay the reasonably anticipated costs set out in the itemised invoice to Cadent on demand in accordance with sub-paragraph (1). To the extent that this sum paid in advance has not been expended by Cadent before three months after payment by the undertaker of that sum, the undertaker may demand the unspent balance remaining to be repaid by Cadent and Cadent shall repay that unspent balance within 30 days (unless otherwise agreed in writing between the parties).

### **Enactments and agreements**

**57.** Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

**58.**—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or Cadent requires the removal of apparatus under paragraph 53(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 55, the undertaker must use its reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent's consent, agreement or approval is required in relation to plans, documents or other information submitted by Cadent or the taking of action by Cadent, it must not be unreasonably withheld or delayed.

### **Access**

**59.** If in consequence of any agreement reached in accordance with paragraph 52(1) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction (in Cadent's reasonable opinion). For the avoidance of doubt, where the undertaker cannot grant such alternative rights and means of access to such apparatus by virtue of not being in possession of the requisite land rights, the undertaker shall use reasonable endeavours to assist in the securing of the requisite rights and means of access.

### **Arbitration**

**60.** Save for differences or disputes arising under sub-paragraphs 53(2) and 53(4) any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 48 (arbitration).

## Notices

**61.** Notwithstanding article 45 (service of notices) any plans submitted to Cadent by the undertaker pursuant to sub-paragraph 55(1) must be sent via email to Cadent Gas Limited Plant Protection at plantprotection@cadentgas.com copied by e-mail to toby.feirn@cadentgas.com and sent to the General Counsel Department at Cadent's registered office or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker in writing.

## PART 6

### For the protection of Network Rail

**62.** The following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 76, of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

**63.** In this Part of this Schedule—

“asset protection agreement” means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"the engineer" means an engineer appointed by Network Rail for the purposes of this Order;

"network licence" means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of his powers under section 8(1)(licences) of the Railways Act 1993;

"Network Rail" means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at 1 Eversholt Street, London NW1 2DN) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition "associated company" means any company which is (within the meaning of section 1159 of the Companies Act 2006 the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited's railway undertaking;

"plans" includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“protective works” means the underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused by the carrying out, maintenance or use of the authorised development;

"railway operational procedures" means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

"railway property" means any railway belonging to Network Rail and-

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;

"regulatory consents" means any consent or approval required under:

- (a) the Railways Act 1993;
- (b) the network licence; and/or
- (c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

"specified work" means so much of any of the authorised works as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property, and for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (power to maintain the authorised development) in respect of such works.

**64.**—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised works pursuant to this Order.

**65.**—(1) The undertaker must not exercise the powers conferred by—

- (a) article 21 (authority to survey and investigate the land);
- (b) article 24 (compulsory acquisition of land);
- (c) article 26 (compulsory acquisition of rights and restrictive covenants);
- (d) article 27 (statutory authority to override easements and other rights);
- (e) article 31 (acquisition of subsoil or airspace only);
- (f) article 34 (temporary use of land for carrying out the authorised development);
- (g) article 35 (temporary use of land for maintaining the authorised development);
- (h) article 36 (statutory undertakers);
- (i) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;
- (j) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail, such consent not to be unreasonably withheld

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act or article 36 (statutory undertakers) in relation to any right of access of Network Rail to railway property, but such right of access may be extinguished or diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would directly result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway, in Network Rail's reasonable opinion.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions including any

conditions necessary to ensure operational or railway safety but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

**66.**—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration under article 48 (arbitration).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated his disapproval of those plans and the grounds of his disapproval, the undertaker may serve upon the engineer written notice requiring the engineer to intimate his approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated his approval or disapproval, he shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, subject to Network Rail seeking consent from the undertaker (such matters to be in the undertaker's absolute discretion) and if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it with all reasonable dispatch on behalf of and to the absolute satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying his approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in his reasonable opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the reasonable expense of the undertaker in either case without reasonable delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to his reasonable satisfaction.

(5) The undertaker shall not be required to comply with sub-paragraph (1) in a case of emergency but in that case it shall give to Network Rail notice as soon as is reasonably practicable, and in addition to that notice shall provide a plan, section and description of those works as soon as reasonably practicable subsequently.

**67.**—(1) Any protective works to be constructed by virtue of paragraph 66(4) must, when commenced, be constructed—

- (a) without necessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 66;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.



(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of the construction of a specified work, the undertaker must, regardless of any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and reasonable compensation for any loss which it may sustain by reason of any such damage, interference or obstruction but always excluding any consequential loss or indirect loss.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its employees, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its employees, contractors or agents.

**68.** The undertaker must-

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as he may reasonably require with regard to a specified work or the method of constructing it.

**69.** Network Rail must at all times afford reasonable facilities to the undertaker and its employees, contractors or agents for access to any works carried out by Network Rail under this Part during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

**70.—**(1) If any permanent or temporary alterations or additions to railway property, are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker written notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working, and when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed and provides its consent, (such matters to be in the undertaker's absolute discretion) Network Rail must assume construction of that part of the specified work and the undertaker must, regardless of any such approval of a specified work under paragraph 66(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and reasonable compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work provided that at all times Network Rail will be under an obligation to take reasonable steps to mitigate its loss and always excluding any consequential loss or indirect loss.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 71(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

**71.** The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 66(3) or in constructing any protective works under the provisions of paragraph 66(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;

- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by him of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, guards and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

**72.** If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as that it adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

**73.** The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

**74.** Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

**75.—(1)** The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses (but always excluding any consequential or indirect loss) not otherwise provided for in this Part of this Schedule (subject to article 46 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the undertaker's construction, maintenance or operation of a specified work or the failure thereof; or
- (b) by reason of any act or omission of the undertaker or of any person in its employment or of its contractors or others whilst engaged upon a specified work;
- (c) by reason of any act or omission of the undertaker or any person in its employment or of its contractors or others whilst accessing to or egressing from the authorised development;
- (d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others; and
- (e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the construction or operation of the authorised development;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission, provided Network Rail will be under an obligation to take reasonable steps to mitigate its loss and always excluding any consequential loss or indirect loss.

(2) The fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under this Part.

(3) Network Rail must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand shall be made without the prior consent of the undertaker take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands

(4) The sums payable by the undertaker under sub-paragraph (1) shall include a sum equivalent to the relevant costs.

(5) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(6) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub paragraph (4).

(7) In this paragraph—

"the relevant costs" means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of Network Rail's railway network as a direct result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in subparagraph (1); and

"train operator" means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

**76.** Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part (including the amount of the relevant costs reasonably incurred and mentioned in paragraph 76) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

**77.** In the assessment of any sums payable to Network Rail under this Part there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

**78.** The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

**79.** Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

**80.** The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 7 (benefit of Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

**81.** The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 44 (certification of plans, etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in the form of a USB stick or download link.

## PART 7

### For the protection of the Canal and River Trust

#### **Interpretation**

**82.**—(1) For the protection of the Canal & River Trust the following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and the Canal & River Trust.

(2) In this Part of this Schedule—

“Code of Practice” means the Code of Practice for Works Affecting the Canal & River Trust (April 2022) or any updates or amendments thereto;

“construction”, in relation to any specified work or protective work, includes—

- (a) the execution and placing of that work; and
- (b) any relaying, renewal, or maintenance of that work and “construct” and “constructed” have corresponding meanings;

“Canal & River Trust’s network” means the Canal & River Trust’s network of waterways;

“detriment” means any damage to the waterway or any other property of the Canal & River Trust caused by the presence of the authorised development and, without prejudice to the generality of that meaning, includes—

- (a) any material obstruction of, or interference with, or hindrance or danger to, navigation or to any use of the waterway (including towing paths);
  - (i) the erosion of the bed or banks of the waterway, or the impairment of the stability of any works, lands or premises forming part of the waterway;
  - (ii) the deposit of materials or the siltation of the waterway so as to damage the waterway;
  - (iii) the pollution of the waterway;
  - (iv) any significant alteration in the water level of the waterway, or significant interference with the supply of water thereto, or drainage of water therefrom;
  - (v) any harm to the ecology of the waterway (including any adverse impact on any site of special scientific interest comprised in the Canal & River Trust’s network); and
  - (vi) any material interference with the exercise by any person of rights over Canal & River Trust’s network;

“the engineer” means an engineer appointed by the Canal & River Trust for the purpose in question;

“plans” includes sections, designs, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction) and programmes;

“practical completion” means practical completion of all of the specified work notwithstanding that items which would ordinarily be considered snagging items remain outstanding, and the expression “practically complete” and “practically completed” is to be construed accordingly;

“protective work” means a work constructed under paragraph 86(3)(a);

“specified work” means so much of any authorised development as defined in article 2(1) of this Order that is situated upon, across, under, over or within 15 metres of, or may in any way affect the waterway;

“the waterway” means each and every part of the Shropshire Union Canal within the order limits, and any works, lands or premises belonging to the Canal & River Trust, or under its management or control, and held or used by the Canal & River Trust in connection with that canal in connection with its statutory functions.

### **Powers requiring the Canal & River Trust’s consent**

**83.**—(1) The undertaker must not in the exercise of the powers conferred by this Order to materially obstruct or interfere with pedestrian or vehicular access to the waterway unless such obstruction or interference with such access is with the consent of the Canal & River Trust.

(2) The undertaker must not exercise any power conferred by this Order to discharge water into the waterway under article 19 (discharge of water) or in any way interfere with the supply of water to or the drainage of water from the waterway unless such exercise is with the consent of the Canal & River Trust, and such consent may be given subject to terms and conditions as the Canal & River Trust may reasonably impose, but must not be unreasonably withheld or delayed.

(3) The undertaker must not exercise the powers conferred by article 21 (authority to survey and investigate the land) or section 11(3) of the 1965 Act, in relation to the Shropshire Union Canal unless such exercise is with the consent of the Canal & River Trust.

(4) Articles 6(a) 6(b) and 6(d)(i) (limits of deviation) shall not apply in relation to the waterway unless in conducting such exercise the crown of any installed pipeline is at least 3.5 metres below the hard bed level of the waterway or otherwise with the consent of the Canal & River Trust.

(5) The consent of the Canal & River Trust pursuant to sub-paragraphs (1) to (4) must not be unreasonably withheld or delayed.

(6) This paragraph does not apply where the undertaker reasonably believes emergency works are required to prevent imminent injury or damage to persons or property. In such circumstances the Canal & River Trust must be notified as soon as reasonably practicable.

### **Fencing**

**84.**—(1) Where so required by the engineer the undertaker must to the reasonable satisfaction of the engineer fence off a specified work or a protective work or take such other steps as the engineer may require to be taken for the purpose of separating a specified work or a protective work from the waterway, whether on a temporary or permanent basis or both.

(2) Any fencing constructed under this provision shall not require any other consent from the Canal & River Trust for interferences or obstructions to access to their network under other provisions.

### **Survey of waterway**

**85.**—(1) Before the commencement of the initial construction of any part of the specified works and again following practical completion of the specified works the undertaker must bear the reasonable and proper cost of the carrying out by a qualified engineer (the “surveyor”), to be approved by the Canal & River Trust and the undertaker, of a survey including a dip-survey to measure the depth of the waterway (“the survey”) of so much of the waterway and of any land and existing works of the undertaker which may provide support for the waterway as will or may be affected by the specified works.

(2) For the purposes of the survey the undertaker must—

- (a) on being given reasonable notice (save in case of emergency, when immediate access must be afforded) afford reasonable facilities to the surveyor for access to the site of the specified works and to any land and existing works of the undertaker which may provide support for the waterway as will or may be affected by the specified works; and

(b) supply the surveyor as soon as reasonably practicable with all such information as they may reasonably require and which the undertaker holds with regard to such existing works of the undertaker and to the specified works or the method of their construction.

(3) The reasonable costs of the survey must include the costs of any dewatering or reduction of the water level of any part of the waterway (where reasonably required) which may be effected to facilitate the carrying out of the survey and the provisions of this Part will apply with all necessary

(4) modifications to any such dewatering or reduction in the water level as though the same were specified works.

(5) Copies of the survey must be provided to both the Canal & River Trust and the undertaker at no cost to the Canal & River Trust.

#### **Approval of plans, protective works etc.**

**86.**—(1) The undertaker must before commencing construction of any specified work including any temporary works supply to the Canal & River Trust proper and sufficient plans of that work, on the Canal & River Trust forms or as otherwise agreed, having regard to the Canal & River Trust's Code of Practice and such further particulars as the Canal and River Trust may within 10 working days of the initial submission of the plans reasonably require. Construction of a specified work must not commence until plans of that work have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld or delayed, and if within 30 working days after such plans (including any other particulars reasonably required under sub-paragraph (1)) have been received by the Canal & River Trust the engineer has not intimated their disapproval of those plans and the grounds of their disapproval the engineer is deemed to have approved the plans as submitted.

(3) When signifying approval of the plans the engineer may specify, on land held or controlled by the Canal & River Trust or the undertaker and subject to such works being authorised by this Order or being development permitted by an Act of Parliament or general development order made under the 1990 Act—

(a) any protective work (whether temporary or permanent) which in the reasonable opinion of the engineer should be carried out before the commencement of a specified work to prevent detriment; and

(b) such other requirements as may be reasonably necessary to prevent detriment.

(4) Any protective works required under this paragraph must be constructed by the undertaker or by the Canal & River Trust at the undertaker's request as soon as practicable and the undertaker must not commence the construction of a specified work until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction with such consent not to be unreasonably withheld or delayed.

(5) The undertaker must pay to the Canal & River Trust a capitalised sum representing the reasonably increased or reasonable additional cost of maintaining and, when necessary, renewing any specified works or permanent protective works provided under sub-paragraph (3) above, for which the Canal & River Trust is liable to maintain, and of carrying out any additional dredging of the waterway reasonably necessitated by the exercise of any of the powers under this Order. If the cost of maintaining the waterway, or of works of renewal of the waterway, is reduced in consequence of any such works, a capitalised sum representing such reasonable saving is to be set off against any sum payable by the undertaker to the Canal & River Trust under this paragraph.

(6) In the event that the undertaker fails to complete the construction of, or part of, the specified works the Canal & River Trust may, if it is reasonably required in order to avoid detriment, serve on the undertaker a notice in writing requesting that construction be completed. Any notice served under this sub-paragraph must state the works that are to be completed by the undertaker and lay out a reasonable timetable for the works' completion. If the undertaker fails to comply with this notice within 35 days, the Canal & River Trust may undertake protective works to make safe the area and avoid detriment, excluding any works to the pipeline itself, and the undertaker must

reimburse the Canal & River Trust all costs, fees, charges and expenses it has reasonably incurred in carrying out such works.

(7) The undertaker and the Canal & River Trust must engage in good faith to agree the works and timeframe in the notice served under this paragraph prior to its service upon the undertaker.

### **Design of works**

**87.**—(1) Without prejudice to its obligations under the foregoing provisions of this Part of this Schedule and subject to safety requirements and compliance with this Order the undertaker must engage in good faith and consult, collaborate and respond constructively to any reasonable approach, suggestion, proposal or initiative made by the Canal & River Trust in respect of works that materially affect the Canal & River Trust's network on—

- (a) the design and appearance of the specified works; and
- (b) the environmental effects of those works, having regard to such views as may be expressed by the Canal & River Trust in response to such consultation pursuant in particular to the requirements imposed on the Canal & River Trust by section 22 (general environmental and recreational duties) of the British Waterways Act 1995 and to the interest of the Canal & River Trust in preserving and enhancing the environment of its waterways; and
- (c) amendments or alterations to the CEMP (as may be approved pursuant to paragraph 5 of Part 1 of Schedule 2) in respect of a specified work or a protective work or otherwise in connection therewith; and
- (d) any draft CTMP and/or any draft LEMP relating to a stage which contains a specified work;

### **Notice of works**

**88.** The undertaker must give to the engineer 30 days' notice of its intention to commence the construction of any of the specified works or protective works, or, in the case of repair carried out in an emergency, such notice as may be reasonably practicable so that, in particular, the Canal & River Trust may where appropriate arrange for the publication of notices bringing those works to the attention of users of the Canal & River Trust's network.

### **Construction of specified works**

**89.**—(1) Any specified works or protective works must, when commenced, be constructed—

- (a) as soon as reasonably practicable in accordance with the plans approved or deemed to have been approved or settled as aforesaid and with any specifications made under paragraphs 86 (approval of plans) and 87 (design of works) of this Part;
- (b) under the supervision (if given) of the engineer;
- (c) in such manner as to cause as little detriment to the waterway as is reasonably practicable;
- (d) in such manner as to cause as little inconvenience as is reasonably practicable to the Canal & River Trust, its officers and agents and all other persons lawfully using the waterways, except to the extent that temporary obstruction has otherwise been agreed by the Canal & River Trust; and
- (e) in such a manner as to reasonably ensure that no materials other than water are discharged or deposited into the waterway (subject always to paragraph 83(2) above); and
- (f) in compliance with the Code of Practice where relevant;

(2) Nothing in this Order authorises the undertaker to make or maintain any permanent works in or over the waterway so as to impede or prevent (whether by reducing the width of the waterway or otherwise) the passage of any vessel which is of a kind (as to its dimensions) for which the Canal & River Trust is required by section 105(1)(b) and (2) of the Transport Act 1968<sup>(a)</sup> to maintain the waterway.

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(a) 1968 c.73, section 105 was amended by the British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659) and the Transport and Works Applications (Inland Waterways Procedure) Regulations 1993 (S.I. 1993/1119)

(3) Following the completion of the construction of the specified works the undertaker must restore the waterway to a condition no less satisfactory than its condition immediately prior to the commencement of those works unless otherwise agreed between the undertaker and the Canal & River Trust.

(4) In assessing whether the condition of the waterway is no less satisfactory than immediately prior to the works pursuant to sub-paragraph (3), the Canal & River Trust and the undertaker must take account of any survey issued pursuant to paragraph 85 (survey of waterway) and any other information agreed between them pursuant to this Part.

### **Prevention of pollution**

**90.** The undertaker must not in the course of constructing a specified work or a protective work or otherwise in connection therewith do or permit anything which is reasonably foreseeable to result in the pollution of the waterway or the deposit of materials therein and must take such steps as the engineer may reasonably require to avoid or make good any breach of its obligations under this paragraph.

### **Access to work – provision of information**

**91.**—(1) The undertaker on being given reasonable notice must—

- (a) at all reasonable times allow reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.

(2) The Canal & River Trust on being given reasonable notice must—

- (a) at all reasonable times afford reasonable facilities to the undertaker and its agents for access to any works carried out by the Canal & River Trust under this Part during their construction; and
- (b) supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them and the undertaker must reimburse the Canal & River Trust's reasonable costs in relation to the supply of such information.

### **Alterations to the waterway**

**92.**—(1) If during the construction of a specified work or a protective work or during a period of twenty four (24) months after the completion of those works any alterations or additions, either permanent or temporary, to the waterway are reasonably necessary in consequence of the construction of the specified work or the protective work in order to avoid detriment, and the Canal & River Trust gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to the Canal & River Trust the reasonable costs of those alterations or additions including, in respect of any such alterations or additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by the Canal & River Trust in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If the cost of maintaining, working or renewing the waterway is reduced in consequence of any such alterations or additions a capitalised sum representing such saving is to be set off against any sum payable by the undertaker to the Canal & River Trust under this paragraph.

(3) For the avoidance of doubt, while the Canal & River Trust may undertake works under this paragraph, including works required to make safe the area, the Canal & River Trust may not undertake any works to the pipeline, or works that may endanger the pipeline, itself under this paragraph.



### **Maintenance of works**

**93.** If at any time after the completion of a specified work or a protective work, not being a work vested in the Canal & River Trust, the Canal & River Trust gives notice to the undertaker informing it that it reasonably considers that the state of maintenance of the specified work or protective work appears to be such that the work is causing or likely to cause detriment, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put the work in such state of maintenance as not to cause such detriment.

### **Repayment of the Canal & River Trust's fees, etc.**

**94.** The undertaker must repay to the Canal & River Trust in accordance with the Code of Practice all fees, costs, charges and expenses reasonably incurred by the Canal & River Trust—

- (a) in constructing any protective works reasonably required under the provisions of paragraph 86(3)(a);
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction or repair of a specified work and any protective works;
- (c) [in respect of the employment during the construction of the specified works or any protective works of any inspectors, watchmen and other persons whom it is reasonably necessary to appoint for inspecting, watching and lighting any waterway and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works or any protective works;]
- (d) in bringing the specified works or any protective works to the notice of users of the Canal & River Trust's network; and
- (e) in constructing and/or carrying out any measures related to any specified works or protective works which are reasonably required by the Canal & River Trust to ensure the safe navigation of the waterway save that nothing is to require the Canal & River Trust to construct and/or carry out any measures.

### **Making good of detriment; compensation and indemnity, etc.**

**95.—(1)** If any detriment is caused by the construction or failure of the specified works or the protective works if carried out by the undertaker, the undertaker (if so required by the Canal & River Trust) must make good such detriment and must pay to the Canal & River Trust all reasonable expenses properly incurred by the Canal & River Trust, and compensation for any loss sustained by the Canal & River Trust in making good or otherwise by reason of the detriment, provided that at all times Canal & River Trust will be under an obligation to take reasonable steps to mitigate its loss, and always excluding any consequential loss or indirect losses.

(2) The undertaker must be responsible for and make good to the Canal & River Trust all costs, charges, damages, expenses and losses not otherwise provided for in this Part which may be occasioned to and reasonably incurred by the Canal & River Trust—

- (a) by reason of the construction of a specified work or a protective work or the failure of such a work; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon the construction of a specified work or protective work;

and subject to sub-paragraph (4) the undertaker must effectively indemnify and hold harmless the Canal & River Trust from and against all claims and demands arising out of or in connection with any of the matters referred to in sub-paragraphs (a) and (b), provided that at all times Canal & River Trust will be under an obligation to take reasonable steps to mitigate its loss, and always excluding any consequential loss or indirect loss.

(3) The fact that any act or thing may have been done by the Canal & River Trust on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision or in accordance with any directions or awards of an arbitrator is not to (if it was done without negligence on the part of the Canal & River Trust or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this paragraph.

(4) Nothing in sub-paragraph (2) imposes any liability on the undertaker with respect to any detriment, damage, loss or interruption to the extent that it is attributable to the act, neglect or default of the Canal & River Trust, its officers, servants, contractors or agents.

(5) The Canal & River Trust must give the undertaker reasonable notice of any such claim or demand as aforesaid and no settlement or compromise of such a claim or demand is to be made without the prior consent of the undertaker.

### **Arbitration**

**96.** Any difference arising between the undertaker and the Canal & River Trust under this Part (other than a difference as to the meaning or construction of this Part) must be referred to and settled by arbitration in accordance with article 48 (arbitration) of this Order.

### **Capitalised sums**

**97.** Any capitalised sum which is required to be paid under this Part must be calculated by multiplying the reasonable cost of the maintenance or renewal works to the waterway necessitated as a result of the operation of the authorised development by the number of times that the maintenance or renewal works will be required during the operation of the authorised development.

## **PART 8**

### **For the protection of SP Manweb**

### **Application**

**98.** The following provisions have effect for the protection of SP Manweb unless otherwise agreed in writing between the undertaker and SP Manweb.

### **Interpretation**

**99.** In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to enable SP Manweb to fulfil its statutory functions in a manner no less efficient than previously (to the reasonable satisfaction of SP Manweb);

“apparatus” means electric lines or electrical plant as defined in the 1989 Act, belonging to or maintained by SP Manweb together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of SP Manweb for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as is given to the term “authorised development” in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Schedule;

“commence” has the same meaning as in article 2 of this Order and commencement must be construed to have the same meaning;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing

easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of SP Manweb including construct, use, repair, alter, inspect, renew or remove the apparatus;

“non-intrusive works” means any of the authorised development or activities undertaken in association with the authorised development which will or may be situated underneath electrical lines, or otherwise within 15 meters (measured in any direction) of any apparatus the removal of which has not been required by the undertaker under paragraph 102(2) or otherwise, but which:

- (a) is situated further than 15 meters from any electrical plant or electricity tower foundations the removal of which has not been required by the undertaker under paragraph 102(2) or otherwise; and
- (b) is not reasonably likely to adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 102(2) or otherwise;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“protective works” means the underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused by the carrying out, maintenance or use of the authorised development;

“SP Manweb” means SP Manweb PLC (Company No. 02366937) whose registered office is at 3 Prenton Way, Prenton, CH43 3ET or any successor company;

“specified works” means any of the authorised development or activities undertaken in association with the authorised development which:

- (a) will or may be situated over, or within 15 metres (measured in any direction) of any apparatus the removal of which has not been required by the undertaker under paragraph 102(2) or otherwise;
  - (i) is reasonably likely to adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 102(2) or otherwise; and/or
  - (ii) include any of the activities that are referred to in SP Manweb’s polices for development near overhead lines EN43-8 and HSE’s guidance note 6 “Avoidance of Danger from Overhead Lines”.

## **On Street Apparatus**

**100.** Except for paragraphs 104, 105 and 106 of this Part of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of SP Manweb, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and SP Manweb are regulated by the provisions of Part 3 of the 1991 Act.

## **Acquisition of land**

**101.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire or take temporary possession of any land interest of SP Manweb or appropriate, acquire, extinguish, interfere with or override any easement or other interest or right and/or apparatus of SP Manweb otherwise than by agreement (such agreement not to be unreasonably withheld or delayed).

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between SP Manweb and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of SP Manweb and/or affects the provisions of any enactment or agreement regulating the relations between SP Manweb and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as SP Manweb reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between SP Manweb and the undertaker acting reasonably and which must be no less favourable on the whole to SP Manweb unless otherwise agreed by SP Manweb, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development.

(3) Where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by SP Manweb and/or other enactments relied upon by SP Manweb as of right or other use in relation to the apparatus, then the provisions in this Schedule must prevail.

(4) No agreement or consent granted by SP Manweb under any other paragraph of this Part of this Schedule constitutes agreement under sub-paragraph (1).

### **Removal of apparatus**

**102.**—(1) If, in the exercise of the agreement reached in accordance with paragraph 101 or in any other authorised manner, including in the exercise of powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of SP Manweb to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of SP Manweb in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any specified works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to SP Manweb at least 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order SP Manweb reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to SP Manweb to its satisfaction (taking into account paragraph 105(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the use and maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, SP Manweb must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such position as may be agreed between SP Manweb and the undertaker.

(5) SP Manweb must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to SP Manweb of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into

operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by SP Manweb and/or other enactments relied upon by SP Manweb as of right or other use in relation to the apparatus, then the provisions in this Schedule must prevail.

### **Facilities and rights for alternative apparatus**

**103.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for SP Manweb facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and SP Manweb acting reasonably and must be no less favourable on the whole to SP Manweb than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by SP Manweb.

(2) If the facilities and rights to be afforded by the undertaker and agreed with SP Manweb under sub-paragraph (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to SP Manweb than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 110 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to SP Manweb as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case. In respect of the appointment of an arbitrator under this sub-paragraph, article 48 (arbitration) applies.

### **Retained apparatus: Protection of SP Manweb as Electricity Undertaker**

**104.**—(1) Not less than 56 days before the commencement of any specified works, the undertaker must submit to SP Manweb a plan of the works to be executed and seek from SP Manweb details of the underground extent of their electricity tower foundations.

(2) In relation to specified works which will or may be situated on, over, under or within (i) 15 metres measured in any direction of any apparatus, or (ii) involve embankment works within 15 metres of any apparatus, the plan to be submitted to SP Manweb under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the specified works;
- (b) the level at which the specified works are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) In relation to any specified works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity support or between any two or more adjacent electricity supports which are within the Order limits or within 10 metres of the Order limits, the plan to be submitted under sub-paragraph (1) must include a method statement which, in addition to the matters set out in sub-paragraph (2), must—

- (a) describe details of any pipeline trench design including route, dimensions, clearance to support foundations;
- (b) demonstrate that support foundations will not be affected prior to, during and post construction;

- (c) describe load bearing capacities of trench supporting structures;
- (d) describe details of any pipeline installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) provide a written management plan for high voltage hazard during construction and ongoing maintenance of the pipeline corridor;
- (f) provide written details of the operations and maintenance regime for the pipeline, including frequency and method of access;
- (g) provide an assessment of earth rise potential if reasonably required by SP Manweb's engineers;
- (h) provide evidence that trench bearing capacity is to be designed to 26 tonnes to take the weight of overhead line construction traffic.

(4) The undertaker must not commence any works to which sub-paragraph (2) or (3) applies until SP Manweb has given written approval of the plan so submitted provided that SP Manweb must not unreasonably delay notification of its approval or disapproval.

(5) Any approval of SP Manweb required under sub-paragraph (2)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,
- (b) must not be unreasonably withheld or delayed.

(6) If after the expiry of 56 days SP Manweb has not communicated approval or disapproval, SP Manweb is deemed to have approved the plans as supplied.

(7) In relation to any work requiring the submission of a plan under sub-paragraph (1), SP Manweb may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus and SP Manweb must notify the undertaker of such modifications within a period of 56 days beginning with the date on which the plan required under sub-paragraph (1) has been submitted to SP Manweb.

(8) Works requiring the submission of a plan under sub-paragraph (1) must only be executed in accordance with the plan as approved or as amended from time to time by agreement between the undertaker and SP Manweb and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5), (7), (9) or (10) by SP Manweb for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and SP Manweb will be entitled to watch and inspect the execution of those works.

(9) Where SP Manweb reasonably requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to SP Manweb's reasonable satisfaction prior to the commencement of any relevant part of the authorised development for which protective works are required and SP Manweb must give notice of its requirement for such works within 56 days from the date of submission of a plan pursuant to sub-paragraph (1) or (7) (except in an emergency).

(10) If SP Manweb in accordance with sub-paragraphs (7) or (9) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (5) to (8) apply as if the removal of the apparatus had been required by the undertaker under paragraph 102(2).

(11) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph must apply to and in respect of the new plan.

(12) The undertaker must not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to SP Manweb notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (7), (8) and (9) insofar as is reasonably practicable in the circumstances; and

(b) comply with sub-paragraph (13) at all times.

(13) At all times when carrying out any works authorised under the Order, the undertaker must comply with statutory requirements and guidelines for development near overhead lines EN43-8, HSE's guidance note 6 "Avoidance of Danger from Overhead Lines", and any other appropriate guidance in relation to any apparatus and aligning with SP Manweb guidelines.

(14) Not less than 56 days before the commencement of any non-intrusive works, the undertaker must notify and submit to SP Manweb a plan of the works to be executed, noting that approval of plans for non-intrusive works is not required.

## **Expenses**

**105.**—(1) Subject to the following provisions of this paragraph, the undertaker must pay to SP Manweb within 30 days of receipt of an itemised invoice or claim from SP Manweb all reasonable charges, costs and expenses reasonably and properly incurred by SP Manweb in the execution of any authorised development, always excluding any consequential loss or indirect loss, and including without limitation in respect of: —

- (a) any costs reasonably and properly incurred by or compensation properly paid by SP Manweb in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by SP Manweb as a consequence of SP Manweb;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 102(3); and/or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting SP Manweb;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of reasonable protective works (including any reasonable temporary protective works and their removal);
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 110 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to SP Manweb by virtue of sub-paragraph (1) will be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to SP Manweb in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on SP Manweb any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

### **Indemnity**

**106.**—(1) Subject to sub-paragraphs (2) and (3), if by reason of the construction of any such works authorised by this Part of this Schedule or of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of SP Manweb, or if there is any interruption in any service provided, or in the supply of any goods by SP Manweb, or SP Manweb becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay on demand accompanied by an invoice or claim and associated itemised accounting from from SP Manweb the cost reasonably and properly incurred by SP Manweb in making good such damage or restoring the supply; and
- (b) indemnify SP Manweb for any other expenses, loss, demands, proceedings, damages, claims, penalties or costs incurred by or recovered from SP Manweb, by reason of any such damage or interruption or SP Manweb becoming liable to any third party as aforesaid other than arising from any default of SP Manweb

always excluding any consequential loss or indirect loss and provided that at all times SP Manweb will be under an obligation to take reasonable steps to mitigate its loss.

(2) The fact that any act or thing may have been done by SP Manweb on behalf of the undertaker or in accordance with a plan approved by SP Manweb or in accordance with any requirement of SP Manweb as a consequence of the authorised development or under its supervision does not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this paragraph where the undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workmanlike manner or in a manner that does not materially accord with the approved plan (or as otherwise agreed between the undertaker and SP Manweb pursuant to paragraph 105).

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of SP Manweb, its officers, employees, contractors or agents;
- (b) any authorised development and/or any other works authorised by this Part of this Schedule carried out by SP Manweb as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the 2008 Act or article 7 (benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised development yet to be executed and not falling within this sub-paragraph 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph in respect of such new apparatus; and / or



(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption.

(4) SP Manweb must give the undertaker reasonable notice of any claim or demand and no settlement, admission of liability or compromise or demand, unless payment is required in connection with a statutory compensation scheme, is to be made without first consulting the undertaker and considering its representations.

### **Enactments and agreements**

**107.** Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between SP Manweb and the undertaker, nothing in this Part of this Schedule will affect the provisions of any enactment or agreement regulating the relations between the undertaker and SP Manweb in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

**108.**—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or SP Manweb requires the removal of apparatus under paragraph 102(2) or SP Manweb makes requirements for the protection or alteration of apparatus under paragraph 104, the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of SP Manweb's undertaking and SP Manweb must use all reasonable endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever SP Manweb's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by SP Manweb is required, it must not be unreasonably withheld or delayed.

### **Access**

**109.** If in consequence of the agreement reached in accordance with paragraph 101(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable SP Manweb to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

**110.** Save for differences or disputes arising under paragraphs 102(2), 102(4), 103(1) and 104 any difference or dispute arising between the undertaker and SP Manweb under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and SP Manweb, determined by arbitration in accordance with article 48 (arbitration).

### **Notices**

**111.** Notwithstanding article 45 (service of notices), any plans submitted to SP Manweb by the undertaker pursuant to this Part must be sent to such address as SP Manweb may from time to time appoint instead for that purpose and notify to the undertaker in writing.

## **PART 9**

### **Protection of CF Fertilisers UK Limited**

**112.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and CF Fertilisers.

**113.** In this Part—

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"CF Fertilisers" means CF Fertilisers UK Limited (company number 03455690), whose registered office is at Head Office Building, Ince, Chester, Cheshire, United Kingdom, CH2 4LB and any associated company of CF Fertilisers UK Limited which holds relevant property;

"relevant property" means:

- (a) any land, works, apparatus and equipment belonging to CF Fertilisers; and
- (b) any easement or other property interest held or used by CF Fertilisers or a tenant or licensee of CF Fertilisers for the purposes of such land, works, apparatus or equipment.

### **Rights of access**

**114.** Regardless of any provision of this Order or anything shown on the land plans, the undertaker-

- (a) must not extinguish any rights of access to the relevant property granted to CF Fertilisers otherwise than by agreement (both parties acting reasonably);
- (b) must provide a minimum of two working days notification prior to entry to the relevant property; and
- (c) must keep any existing roads used for access to the relevant property by CF Fertilisers clear from obstruction as far as reasonably practicable.

### **Expenses**

**115.** Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of CF Fertilisers or its servants, contractors or agents or any liability on CF Fertilisers with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

**116.** The undertaker must pay to CF Fertilisers all reasonable and proper costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (but always excluding any consequential loss or indirect loss) which may be reasonably incurred by CF Fertilisers in respect of any damage caused to or additional maintenance required to relevant property as a direct result of the construction of the authorised development.

**117.** (1) Notwithstanding anything to the contrary in this Part of this Schedule, the undertaker shall not be liable for any consequential loss or indirect loss suffered by CF Fertilisers as a result of the construction of the authorised development and CF Fertilisers shall not be liable for any consequential loss or indirect loss suffered by the undertaker as a result of the construction of the authorised development.

(2) CF Fertilisers must-

- (a) give the undertaker reasonable written notice of any such sums referred to in paragraph 116 as soon as reasonably possible after CF Fertilisers become aware of the same;
- (b) not make any offers to settle claims or demands without the prior consent of the undertaker;
- (c) take all reasonable steps to mitigate any liabilities; and
- (d) keep the undertaker informed and have regard to the undertaker's representations in relation to any such sums referred to in paragraph 116.

## PART 10

### For the protection of Wales and West Utilities

**118.** For the protection of Wales and West Utilities as referred to in this part of this Schedule the provisions of this Part have effect unless otherwise agreed in writing between the undertaker and Wales and West Utilities.

**119.** In this Part—

“alternative apparatus” means alternative apparatus adequate to enable Wales and West Utilities to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means all mains, pipes or other apparatus belonging to or maintained by Wales and West Utilities for the purposes of carrying out its statutory undertaking and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as in article 2 (interpretation) of this Order and (unless otherwise specified) for the purposes of this Schedule shall include associated development and the construction, use, maintenance and decommissioning of the authorised development and the construction of any authorised development;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

“protective works” means the underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused by the carrying out, maintenance or use of the authorised development;

“security infrastructure” includes cameras, perimeter fencing, fencing and gates and any other security measures required in order to ensure an appropriate level of security in respect of the authorised development or any apparatus;

“specified work” means so much of any of the works comprised in the authorised development or activities undertaken in association with the authorised development which:

- (a) are in, on or under any land purchased, leased, held, appropriated or used under this Order that are within 15 metres of, or will or may in any way affect, any apparatus the removal of which is not required under paragraph 123 of this Part of this Schedule; and/or
- (b) will or may be situated within 4 metres measured in any direction of any security infrastructure belonging to or maintained by Wales and West Utilities;

“WWU standards” means Wales and West Utilities Limited specification for safe working in the vicinity of pipelines and associated installations operating above 2 barg – requirements for third parties (SSW22) and Plant Protection General Conditions; and

“Wales and West Utilities” means Wales and West Utilities Limited (Company No. 05046791) whose registered office is at Wales & West House, Spooner Close Coedkernew, Newport, South Wales, NP10 8FZ and includes any successor in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986.

#### **Apparatus in streets**

**120.** This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Wales and West Utilities are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act;

**121.** Regardless of the temporary prohibition or restriction of use of public rights of way or streets under the powers conferred by article 13 (temporary restriction of public right of way) and 14 (temporary restriction of use of streets), Wales and West Utilities is at liberty at all times to take all

reasonably necessary access across any such public right of way or street and to execute and do all such works and things in upon or under any such public right of way or street as may be reasonably necessary to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that public right of way or street.

### **Acquisition of land**

**122.** Regardless of any provision of this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker must not (a) appropriate or acquire or take temporary possession of apparatus or (b) appropriate, acquire or extinguish interfere with or override any easement, other interest or right and/or apparatus any apparatus belonging to or maintained by Wales and West Utilities otherwise than by agreement, provided that such agreement is not unreasonably delayed or withheld.

### **Removal of apparatus**

**123.**—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 118, the undertaker acquires any interest in, on or under any land in which any apparatus is placed or over which access is enjoyed and requires Wales and West Utilities' apparatus is relocated or diverted, that apparatus must not be decommissioned or removed under this Part, and any right of Wales and West Utilities to maintain that apparatus in that land and to gain access to it must not be extinguished or interfered with until alternative apparatus has been constructed and is in operation and the facilities and rights referred to in sub-paragraph (2) to the reasonable satisfaction of Wales and West Utilities.

(2) If, for the purpose of executing any works in, on or under any land purchased, leased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Wales and West Utilities at least 28 days' written notice of that requirement, together with a plan, description, risk assessment method statement and section drawing of the work proposed which complies with WWU standards, and of the proposed position of the alternative apparatus to be provided or constructed; and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Wales and West Utilities reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Wales and West Utilities the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of and access to that apparatus and any appropriate working areas.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, Wales and West Utilities must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between Wales and West Utilities and the undertaker or in default of agreement settled by arbitration in accordance with article 48 (arbitration).

(5) Wales and West Utilities must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 48 (arbitration), and after the grant to Wales and West Utilities of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove or decommission any apparatus required by the undertaker to be removed or decommissioned under the provisions of this Part.

### **Facilities and rights for alternative apparatus**

**124.**—(1) Where, in accordance with the provisions of this Part, the undertaker affords to Wales and West Utilities facilities and rights for the construction and maintenance in land of the undertaker

of alternative apparatus in substitution for apparatus to be removed or decommissioned, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Wales and West Utilities or in default of agreement settled by arbitration in accordance with article 48 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along the authorised development, the arbitrator must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus that may be required to prevent interference with any proposed works of the undertaker;
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the authorised project for which the alternative apparatus is to be substituted; and
- (c) avoid any unreasonable adverse impact on Wales and West Utilities' operations or apparatus.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Wales and West Utilities than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Wales and West Utilities as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus**

**125.**—(1) Not less than 42 days before starting the execution of any specified works in, on or under any land purchased, leased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 123(2), the undertaker must submit to Wales and West Utilities a plan, section drawing, description of the works to be executed and a risk assessment method statement which comply with WWU standards.

(2) Those works must be executed only in accordance with the plan, section drawing, description and risk assessment method statement submitted under sub-paragraph (1) and in accordance with WWU standards and such reasonable requirements as may be made in accordance with sub-paragraph (3) by Wales and West Utilities for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Wales and West Utilities is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Wales and West Utilities under sub-paragraph (2) must be made within a period of 42 days beginning with the date on which a plan, section drawing, description, and risk assessment method statement under sub-paragraph (1) is submitted to it.

(4) If Wales and West Utilities, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal or decommissioning of any apparatus or any reasonably necessary protective works and gives written notice to the undertaker of that requirement, the provisions of this Part apply as if the removal or decommissioning of the apparatus or the protective works had been required by the undertaker under paragraph 123(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 42 days before commencing the execution of any works, a new plan instead of the plan, section drawing, description and risk assessment method statement previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section drawing, description and risk assessment method statement.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to Wales and West Utilities notice as soon as is reasonably practicable and a plan, section drawing, description and risk assessment method statement of those works as soon

as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

(7) Where the specified works only include ground investigation or PAS128 Cat A surveys, all timeframes in this paragraph shall be reduced to 14 days.

### **Expenses and costs**

**126.**—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Wales and West Utilities within 30 days of a request by Wales and West Utilities the reasonable expenses agreed with the undertaker in advance and reasonably incurred by Wales and West Utilities in the inspection, removal, relaying or replacing, alteration or protection of any apparatus or security infrastructure of the construction of any new apparatus or security infrastructure which may be required in direct consequence of the execution of any such works as are referred to in paragraph 123(2) or any specified work, but always provided that the undertaker shall not be liable under any circumstances for any consequential loss or indirect loss suffered by Wales and West Utilities.

(2) The value of any apparatus removed under the provisions of this Part must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 48 (arbitration) to be necessary then, if such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Wales and West Utilities in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Wales and West Utilities any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

**127.**—(1) Subject to sub-paragraph (2), if by reason or in consequence of the construction of any such works referred to in paragraph 6(2) or any specified work any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Wales and West Utilities, or there is any interruption in any service provided, or in the supply of any goods, by Wales and West Utilities, the undertaker must—

(a) bear and pay the cost reasonably incurred by Wales and West Utilities in making good such damage or restoring the supply; and

(b) make reasonable compensation to Wales and West Utilities for any other expenses, loss, damages, penalty or costs incurred by Wales and West Utilities,

as a direct result of any such damage or interruption and always provided that the undertaker shall not be liable under any circumstances for any consequential loss or indirect loss suffered by Wales and West Utilities.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Wales and West Utilities, its officers, servants, contractors or agents.

(3) Wales and West Utilities must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker unless payment is required and the level specified in accordance with a statutory compensation scheme and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand provided that the undertaker consults Wales and West Utilities and takes any representations it makes into account.

### **Enactments and agreements**

**128.** Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and Wales and West Utilities in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

## **PART 11**

### **Protection for Welsh Water**

**129.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and Welsh Water.

**130.** In this Part—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) mains, pipes or other apparatus belonging to or maintained by that water undertaker for the purposes of water supply; and
- (b) any drain or works vested in the sewerage undertaker under the Water Industry Act 1991; and
- (c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewerage disposal works, at future date) of that Act;

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed; and

“utility undertaker” means—

- (a) a water undertaker within the meaning of the Water Industry Act 1991; and
- (b) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

### **On street apparatus**

**131.** This Part does not apply to—

- (a) apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

### **Acquisition of land**

**132.** Regardless of any provision of this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

### **Removal of apparatus**

**133.**—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed; and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 48 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 48 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.



(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

### **Facilities and rights for alternative apparatus**

**134.**—(1) Where, in accordance with the provisions of this Part, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 48 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along the authorised development, the arbitrator must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus that may be required to prevent interference with any proposed works of the undertaker; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the authorised project for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus**

**135.**—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 133(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, the provisions of this Part apply as if the removal of the apparatus had been required by the undertaker under paragraph 133(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably

practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

### **Expenses and costs**

**136.**—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses agreed with the undertaker in advance and reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 133(2).

(2) The value of any apparatus removed under the provisions of this Part must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 48 (arbitration) to be necessary then, if such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

**137.**—(1) Subject to sub-paragraph (2), if by reason or in consequence of the construction of any such works referred to in paragraph 133(2) any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,  
by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

### **Miscellaneous**

**138.** Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

## **PART 12**

### **For the protection of United Utilities Water Limited (UU Water)**

### **Application**

**139.** For the protection of UU Water the following provisions, unless otherwise agreed in writing between the undertaker and UU Water, have effect.

### **Interpretation**

**140.** In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of UU Water to enable UU Water to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any treatment works, reservoirs, pumping stations, water mains, sewers, drains, sludge mains, disposal mains, pipes or any accessories (including those within the meaning of section 219 of the Water Industry Act 1991) vested in UU Water under the Water Industry Act 1991 and any preceding legislation or other apparatus belonging to or maintained by UU Water for the purposes of UU Water’s undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of UU Water for the purposes of UU Water’s undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 of the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“Estimate” means a reasonable estimate of the total reasonable and proper costs that UU Water expects to incur in respect of staff and orders or instructions that need to be given to UU Water’s vendors in its supply chain or to third party organisations to obtain their consent in respect of the specified works.

“facilities and rights” for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance activity, and any necessary rights of access;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by UU Water (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground conditions and vibration which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels and water supplies are to be monitored (including turbidity), the timescales of any monitoring activities and the extent of ground subsidence, dewatering and / or vibration which, if exceeded, shall require the undertaker to submit for UU Water’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence, ground dewatering or vibration identified by the monitoring activities set out in the ground monitoring scheme that has exceeded or reasonably has the potential to exceed the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” (in a context referring to apparatus or alternative apparatus in land) includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” have effect as if the term maintain includes protect and use;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary to properly and sufficiently describe and assess the works to be executed;

“protective works” means any works that are reasonably necessary to protect UU Water’s services to its customers and its apparatus from damage that may be caused by the carrying out, maintenance or use of the authorised development;

“rights” includes restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

“specified works” means any of the authorised works or activities (including maintenance) undertaken in association with the authorised development (including maintenance and notwithstanding the definition of “commence” in Article 2 of this Order) including but not limited to any intrusive site preparation works, intrusive remediation works, intrusive surveys and investigations (including archaeological, utility or soil surveys), erection of temporary fencing requiring intrusive supports, intrusive marking out of site boundaries, diversion or laying of services or intrusive environmental mitigation measures and any such temporary access by HGVs or LGVs that may be required in association with these, and which—

- (a) when involving a pipe up to and including 300mm in diameter, will or may be situated over, or within 3000mm measured in any direction of any apparatus, the removal of which has not been required by the undertaker under sub-paragraph 144(2) or otherwise;
- (b) when involving a pipe exceeding 300mm in diameter, will or may be situated over, or within 5000mm measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 144(2) or otherwise ;or
- (c) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 144(2) or otherwise;

“UU Water” means United Utilities Water Limited (company number 02366678), registered office at Haweswater House, Lingley Mere Business Park, Lingley Green Avenue, Great Sankey, Warrington, WA5 3LP and includes its successors in title or any successor as a water and sewerage undertaker within the meaning of the Water Industry Act 1991; and

“UU Water’s undertaking” means the rights, duties and obligations of United Utilities Water Limited as a water and sewerage undertaker under the Water Industry Act 1991.

### **Apparatus of UU Water stopped up in street**

**141.** Notwithstanding the temporary alteration, diversion or restriction of use of any street under the powers of article 14 (temporary restriction of use of streets) UU Water will be at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary alteration, diversion or restriction in respect of any apparatus which at the time of the stopping up or diversion was in that street

## **Discharge of Water, foul and surface water**

**142.**—(1) If the undertaker proposes to connect foul water to a public sewer operated by UU Water, the undertaker shall give to UU Water notice of the proposal, and within 42 days of the receipt by them of the notice, UU Water may refuse permission for the connection but only if it has reasonable grounds for doing so, or it may grant permission for the connection or alteration, subject to such reasonable conditions as it thinks fit acting reasonably. Any such permission may in particular specify the mode and point of connection.

(2) If the undertaker proposes to connect surface water to a public sewer operated by UU Water, the undertaker shall give to UU Water notice of the proposal, and within 42 days of the receipt by them of the notice, UU Water may refuse permission for the connection, but only if it has reasonable grounds for doing so, or it may grant permission for the connection or alteration, subject to such reasonable conditions as it thinks fit acting reasonably. Any such permission may in particular specify the mode, the point of connection, the rate of discharge and the size of any attenuation necessary. UU Water shall be entitled to refuse any connection where the sustainable drainage system hierarchy for managing surface water has not been reasonably investigated and / or sustainable drainage has not been incorporated within the proposed surface water drainage to the satisfaction of UU Water;

(3) Where there are separate public sewers for foul water and surface water, UU Water may prohibit the discharge of foul water into the public sewer reserved for surface water, and prohibit the discharge of surface water into the public sewer reserved for foul water

(4) Where UU Water has not granted or refused permission under this paragraph within 42 days from the receipt of notice of a proposal the permission shall be deemed to be granted

(5) Nothing in this section entitles the undertaker to:

- (a) discharge in to a public sewer (directly or indirectly), highway drainage, groundwater, trade effluent or any liquid or other matter, the discharge of which in to a public sewer is prohibited by or under any enactment; or
- (b) have drains or sewers that communicate directly with a storm water overflow.

## **Protective works to buildings**

**143.** The undertaker must exercise the powers conferred by article 22 (protective work to buildings) so as not to obstruct or render less convenient the access to any apparatus without the written consent of UU Water (such consent not to be unreasonably withheld or delayed) and if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in the view of its intended removal or abandonment) or property of UU Water or any interruption in the supply of water and the provision of sewerage services by UU Water, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred and documented by UU Water in making good such damage or restoring the supply; and, shall – pay compensation to UU Water for any loss sustained by reason of any such damage or interruption.

## **Removal of apparatus**

**144.**—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 143, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed and any right of UU Water to maintain that apparatus in that land must not be extinguished or interfered with until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of UU Water and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to UU Water advance written notice of not less than 70 days of that requirement, together with a plan and section of the work proposed, and of the proposed position of

the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order UU Water reasonably needs to move or remove any of its apparatus) the undertaker must afford to UU Water to its reasonable satisfaction the necessary facilities and rights—

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by UU Water in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by UU Water in respect of the apparatus); and
- (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by UU Water in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, UU Water must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for UU Water to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to do so.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such position as may be agreed between UU Water and the undertaker, each acting reasonably.

(5) UU Water must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to UU Water of such facilities and rights as are referred to in sub-paragraph (2) or (3), then proceed without unnecessary delay to construct and bring in to operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

### **Facilities and rights for alternative apparatus**

**145.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for UU Water facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and UU Water, each acting reasonably, and must be no less favourable on the whole to UU Water than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by UU Water.

(2) If the facilities and rights to be afforded by the undertaker and agreed with UU Water under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to UU Water than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed, then the terms and conditions to which those facilities and rights are subject may be referred to arbitration in accordance with paragraph 149 of this Part of this Schedule and the arbitrator must make such provision for the payment of reasonable compensation by the undertaker to UU Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus: protection of UU Water**

**146.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to UU Water a plan and, if reasonably required by UU Water, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to UU Water under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of
- (d) excavation, positioning of plant etc.;
- (e) the position of all apparatus, identified if necessary by survey or investigation works carried out with the prior agreement and to the reasonable satisfaction of UU Water;
- (f) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (g) any intended maintenance regimes.

(3) the undertaker must not commence any specified works until UU Water has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of UU Water given under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and
- (b) must not be unreasonably withheld or delayed and UU Water and any approval or refusal must be provided to the undertaker within 56 days of the date of submission of the plan under sub-paragraph (1).

(5) UU Water may require protective works or such modifications to be made to the plan as may be reasonably necessary for the purpose of maintaining services to its customers, or securing its apparatus against interference or risk of damage, or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Specified works must only be executed in accordance with—

- (a) the plan submitted under sub-paragraph (1) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and UU Water; and
- (b) all conditions imposed under sub-paragraph (4)(a), and UU Water will be entitled to watch and inspect the execution of those works.

(7) Where UU Water reasonably requires any protective works or such modifications to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works or modifications, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to UU Water's reasonable satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which such protective works or modifications are required prior to commencement.

(8) If UU Water, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 139 to 141 and 143 to 145 apply as if the removal of the apparatus had been required by the undertaker under paragraph 144(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) As soon as is reasonably practicable after any ground subsidence event attributable to the authorised works (including such an event attributable to its maintenance)—

- (a) the undertaker must implement an appropriate ground mitigation scheme; and
- (b) UU Water retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such reasonable and documented costs in line with paragraph 147.

(11) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to UU Water notice as soon as is reasonably

practicable and a plan of those works and must comply with the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances.

(12) In this paragraph, “emergency works” means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to life or property or the environment, and to any interruption of a supply of water provided to any premises and to any interruption of the provision of sewerage services to any premises.

## **Expenses**

**147.**—(1) At the same time as any written notice is provided by UU Water in accordance with paragraph 146(8), UU Water shall also submit an Estimate to the undertaker.

(2) If the undertaker elects that it will proceed with the specified works it shall make an advance payment of the Estimate to UU Water no later than 28 days prior to the planned commencement of the specified works. The undertaker shall not commence the specified works until a minimum of 28 days of receipt by UU Water of the advance payment.

(3) If at any point UU Water’s Estimate is forecast to be exceeded, UU Water shall submit an early warning notification and then a change request documenting all costs already incurred and forecast to be reasonably incurred and submit an updated Estimate to the undertaker no less than 28 days prior to the Estimate being reasonably expected to be exceeded. The undertaker shall make such additional payment required by the updated Estimate as soon as reasonably possible and in any event no later than 56 days after receipt of the updated Estimate.

(4) Where the undertaker fails to make such additional payment required under sub-paragraph (3) within 56 days of receipt of the updated Estimate, UU Water will be entitled to require the undertaker to suspend works from the point at which the charges, costs and expenses reach or exceed the Estimate. In addition any reasonable abortive/demobilisation costs resulting from this would be recoverable by UU Water from the undertaker.

(5) In the event of any dispute as to the reasonableness of costs included in an updated Estimate submitted under sub-paragraph (3), UU Water must not exercise the powers of sub-paragraph (4) until the dispute has been finally determined.

(6) Subject to the following provisions of this paragraph, UU Water’ will retain an account of all its direct charges, costs and expenses reasonably incurred and documented by UU Water in the design, planning, inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus required as a direct result of the execution of any authorised works including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by UU Water in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including reasonable costs (including professional fees) incurred by UU Water as a consequence of UU Water;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 5(3) if it elects to do so; or
  - (ii) exercising any compulsory purchase powers under this Order transferred to or benefitting UU Water;
- (b) in connection with the cost of the carrying out of any necessary diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works, the provision of network contingency measures or the installation or removal of any temporary



works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;

- (g) any watching brief pursuant to sub-paragraph 145(6);
- (h) in connection with an assessment of flood risk from UU Water apparatus (note above comment about whether this apparatus includes a reservoir);
- (i) in connection with an assessment of the impact on a UU Water outfall;
- (j) any relevant charges in accordance with the charges scheme under the Water Industry Act 1991.

(7) UU Water shall give the undertaker regular actual and forecast cost updates at intervals to be agreed between UU Water and the undertaker, each acting reasonably.

(8) Within 90 days of completion of the specified works, UU Water shall reconcile its accounts with its supply chain and collate its internal costs and advise the undertaker of the final account position. Within 28 days of this final account, UU shall reimburse the undertaker of all remaining monies that were received as part of any advance payment arrangements. If the final account is above the Estimate, the undertaker will be required to pay UU Water within 28 days of submission of the final account.

(9) UU Water may in carrying out works, elect to place —

- (a) alternative apparatus of a better type, or greater capacity or of greater dimensions in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions save where this has been solely due to using the nearest currently available type (or where it is more economical overall or there is no practical alternative to the relevant course of action, including where the same is mandated by UU Water's Standards); or
- (b) existing or alternative apparatus at a depth greater than the depth at which the existing apparatus was situated save for where the requirement for a greater depth cannot reasonably be avoided, (a "Betterment").

(10) The twinning of assets crossing the authorised works or similar initiatives to provide resilience to UU Water's network in accordance with the prevailing business and engineering requirements may be necessary, in circumstances in which the proposed authorised works will compromise the future access or present an unacceptable operational or business risk to the relevant asset (without interference with the authorised work), and such twinning or similar arrangement is not Betterment. Where UU Water can demonstrate on a case by case basis that the particular asset is critical (for example, it is critical to the provision of water or wastewater services, or the authorised works cannot accommodate a like for like asset replacement, or there is no alternative means of maintaining services to customers by bypassing the asset under the authorised works), the twinning of assets crossing the authorised works or similar arrangement is not Betterment.

(11) Where UU Water has elected to place apparatus which is assessed and agreed by UU Water as Betterment, the undertaker shall not be required to cover any additional cost associated with that Betterment. Any such assessment and decision by UU Water on whether such apparatus is Betterment or not shall always be made by UU Water acting reasonably.

## **Indemnity**

**148.**—(1) If by reason of the authorised works any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of UU Water, or there is any material interruption in any service provided, or in the supply of any goods by UU Water, or UU Water has to take action to protect the services to its customers, or UU Water elects to use its statutory powers, the undertaker must—

- (a) bear and pay the cost reasonably incurred by UU in making good such damage or restoring the supply or use of the UU Water's statutory powers; and
- (b) make reasonable compensation to UU Water for any other expenses, loss, damages, penalty or costs suffered or incurred and documented by UU Water, by reason of any such damage or interruption or use of UU Water's statutory powers,

provided always that UU Water makes all reasonable endeavours to mitigate any such expenses, losses, damages, penalties or costs.

(2) The fact that any act or thing may have been done by UU Water on behalf of the undertaker or in accordance with a plan approved by UU Water or in accordance with any requirement of UU Water or under its supervision does not, excuse the undertaker from liability under the provisions.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of UU Water, its officers, servants, contractors or agents.

(4) Notwithstanding any paragraph or sub-paragraph of this Part of the Schedule, the undertaker shall under no circumstances be liable for any consequential loss or indirect loss suffered by UU Water.

### **Enactments and agreements**

**149.** Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and UU Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

**150.**—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or UU Water requires the removal of apparatus under paragraph 144(2) or UU Water makes requirements for the protection or alteration of apparatus under paragraph 146, the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of UU Water's undertaking, using existing processes where requested by UU Water, provided it is appropriate to do so, and UU Water must use its reasonable endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever UU Water's consent, agreement or approval is required in relation to plans, documents or other information submitted by UU Water or the taking of action by UU Water, it must not be unreasonably withheld or delayed.

(3) Where the undertaker identifies any apparatus which may belong to or be maintainable by UU Water but which does not appear on any statutory map kept for the purpose by UU Water, it shall inform UU Water of the existence and location of the apparatus as soon as is reasonably practicable.

(4) Where UU Water identifies any apparatus which may belong to Others but which does not appear on any statutory map kept for the purpose by UU Water, it shall inform the undertaker of the existence and location of the apparatus as soon as is reasonably practicable.

(5) The undertaker shall notify UU Water of any hazardous material/contamination encountered in land involving UU apparatus or where sub-paragraphs (a), (b) and/or (c) of the definition of Specified Works applies. UU Water shall likewise notify the undertaker where it believes there is a risk that the undertaker may encounter hazardous material/contamination in such land.

### **Access**

**151.** If in consequence of any agreement reached in accordance with paragraph 139(1) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker shall seek to provide such alternative rights and means of access to such apparatus, to the extent that provision of such rights and means of access is within the ability of the undertaker to grant, as will enable UU Water to maintain or use the apparatus no less effectively than was possible before such obstruction.

## **Arbitration**

**152.** Save for differences or disputes arising under paragraph 141(4) any difference or dispute arising between the undertaker and UU Water under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and UU Water, be determined by arbitration in accordance with article 48 (arbitration).

## **Notices**

**153.** Notwithstanding article 45 (service of notices) any plans submitted to UU Water by the undertaker must be sent via email to UU Water s and sent to the General Counsel Department at UU Water's registered office or such other address as UU Water may from time to time appoint instead for that purpose and notify to the undertaker in writing.

## **PART 13**

For the protection of United Kingdom Oil Pipelines Limited

**154.** For the protection of United Kingdom Oil Pipelines Limited

## **Application**

**155.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and UKOP.

## **Interpretation**

**156.** In this Part—

"1991 Act" means the New Roads and Street Works Act 1991;

"alternative apparatus" means alternative apparatus adequate to enable UKOP to fulfil its functions as a private commercial fuel pipeline operator/transporter in a manner no less efficient than previously;

"apparatus" means the whole or any part of any pipeline cable or other apparatus owned or operated by UKOP (or its authorised agents) used in connection with the transmission of hydrocarbon fuel together with any other plant and equipment ancillary thereto (which includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus);

"authorised works" has the same meaning as is given to the term "authorised development" in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

"commence" and "commencement" in this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

"deed(s) of consent" means any deed of consent, crossing agreement, deed of variation or new deed agreed between the parties acting reasonably in order to vary or replace existing easements, leases, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"ground mitigation scheme" means a scheme approved by UKOP (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities

and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for UKOP's approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over across along or upon land;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of UKOP including construct, use, repair, alter, inspect, renew or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 157(2) or otherwise; and/or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 157(2) or otherwise;

“UKOP” means United Kingdom Oil Pipelines Limited (Co. No.00746709) whose registered office is at 5-7 Alexandra Road, Hemel Hempstead, Hertfordshire, HP2 5BS; and

“undertaker” means the undertaker as defined in article 2(1) of this Order.

### **On Street Apparatus**

**157.** Except for paragraph 161 (retained apparatus) and 162 (expenses and costs) of this Part of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of UKOP, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and UKOP are regulated by the provisions of Part 3 of the 1991 Act.

### **Acquisition or possession of land**

**158.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of any apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of UKOP otherwise than by agreement (all such agreement(s) not to be unreasonably withheld or delayed) and unless it grants replacement rights to UKOP in a form agreed between the parties in accordance with the provisions of paragraph 159 (Removal of apparatus) or paragraph 160 (UKOP Replacement facilities and rights).

(2) As a condition of any agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between UKOP and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of UKOP or affect the provisions of any enactment or agreement regulating the relations between UKOP and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as UKOP reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between UKOP and the undertaker, both acting reasonably, and which must be no less favourable on the whole to UKOP unless otherwise agreed by UKOP, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and UKOP agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by UKOP and/or other enactments relied upon by UKOP as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by UKOP under paragraph 161 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

### **Removal of apparatus**

**159.**—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that UKOP's apparatus is relocated or diverted, that apparatus must not be removed under this Part, and any right of UKOP to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of UKOP in accordance with sub-paragraphs (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to UKOP advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order UKOP reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to UKOP to its reasonable satisfaction (taking into account paragraph 160(1) below) the necessary facilities and rights

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, UKOP must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for UKOP to use its compulsory purchase powers to this end.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between UKOP and the undertaker.

(5) UKOP must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to UKOP of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule

### **UKOP replacement facilities and rights**

**160.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker is to afford to or secure for UKOP facilities and rights in land for the construction, use, maintenance and protection of apparatus either in substitution for apparatus to be removed (or where existing rights are being sterilized), deeds of consent must be granted upon such terms and conditions as may be agreed between the undertaker and UKOP both acting reasonably and must be no less favourable

on the whole to UKOP than the facilities and rights enjoyed by it previously in respect of the apparatus unless otherwise agreed by UKOP and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(2) If the facilities and rights to be afforded by the undertaker pursuant to sub-paragraph (1) above, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to UKOP than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the matter may be referred to arbitration in accordance with paragraph 166 (Arbitration) of this Part of this Schedule the arbitrator must make such provision for the payment of compensation by the undertaker to UKOP as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus**

**161.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to UKOP a plan and, if reasonably required by UKOP, a ground monitoring scheme in respect of those works taking place within 20 metres of the apparatus.

(2) The plan to be submitted to UKOP under sub-paragraph (1) must include a method statement and describe:-

- (a) the exact position of the works and details of any infrastructure machinery or vehicles to be used in connection therewith;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of all excavation, positioning of plant etc and any works' compounds;
- (d) the position of all apparatus and fencelines;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) In relation to any works which will or may be situated within 6.1 metres measured in any direction of any apparatus (the removal of which has not been required by the undertaker under paragraph 157(2) or otherwise), the plan to be submitted under sub-paragraph (1) must also describe:-

- (a) details of any trench design including route, dimensions and clearance to the apparatus;
- (b) demonstration that the apparatus will not be affected prior to, during and post construction; and
- (c) details of load bearing capacities of trenches.

(4) The undertaker must not commence any works to which sub-paragraphs (1), (2) or (3) apply until UKOP has given written approval of the plan so submitted.

(5) UKOP may within 10 working days of initial receipt of the plan submitted under sub-paragraph (1) raise any additional questions or comments or request further information and/or clarification in relation to the plan.

(6) Any approval of UKOP required under sub-paragraph (4):

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (8) or (10); and
- (b) must not be unreasonably withheld or delayed.

(7) UKOP is deemed to have approved the plan as submitted under sub-paragraph (1) if UKOP has not intimated its approval or disapproval of the plan, and the grounds of that disapproval, within 30 working days after the plan or the responses to any additional questions, comments, further information or clarification raised or requested under sub-paragraph (5) has been received by UKOP.

(8) In relation to any work to which sub-paragraphs (1), (2) and/or (3) apply, UKOP may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(9) Works executed under sub-paragraphs (1) or (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and UKOP and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (8) or (10) by UKOP for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and UKOP will be entitled to watch and inspect the execution of those works.

(10) Where UKOP reasonably requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to UKOP's satisfaction, acting reasonably, prior to the commencement of any specified works for which protective works are required and UKOP give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(11) If UKOP in accordance with sub-paragraphs (8) or (10) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (4) and (8) to (10) apply as if the removal of the apparatus had been required by the undertaker under paragraph 159(2)

(12) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(13) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to UKOP notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (8), (9) and (10) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (14) at all times.

(14) At all times when carrying out any works authorised under the Order the undertaker must ensure that all works comply with:

- (a) Linewatch's Booklet for Special Requirements for safe working in close proximity to high pressure pipelines (rev23.03); and
- (b) Linesearch Before U Dig (LinesearchbeforeUdig Safety Practices - LinesearchbeforeUdig (lsbud.co.uk)); and
- (c) The United Kingdom Onshore Pipeline Operators' Association Good Practice Guides (Good Practice Guides | UKOPA); and
- (d) The Pipeline Safety Regulations 1996; and
- (e) The Pipe-lines Act 1962;

(all as updated or replaced from time to time)

(15) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that UKOP retains the right to carry out any further reasonably necessary protective works for the safeguarding of its apparatus and can recover any such reasonable costs in line with paragraph 160 (Expenses and costs).

### **Expenses and costs**

**162.**—(1) Save where otherwise agreed in writing between UKOP and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to UKOP within 25 days of receipt of an itemised invoice or claim from UKOP all charges, costs and expenses (including legal expenses) reasonably and properly incurred by UKOP in, pursuant to, or in connection with these

protective provisions, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

- (a) any costs and expenses (including but not limited to reasonable legal expenses) reasonably incurred by or compensation properly paid by UKOP in connection with the acquisition, variation or grant of any rights or the exercise of any statutory powers in respect of such apparatus;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of reasonably required protective works, plus a capitalised sum to cover the reasonable cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary for the execution of any such works referred to in this Part of this Schedule; or
- (g) any costs and expenses (including but not limited to legal expenses) reasonably incurred in assisting the undertaker to procure and/or secure any consent and entering into of any deeds and/or variations by other third parties required in connection with this Part of this Schedule, save that for the avoidance of any doubt:
  - (i) the undertaker be directly responsible for the payment of all third party costs and expenses where the undertaker is a party to any such deeds or variations; and
  - (ii) where the undertaker is not a party to such deeds or variations, or where a consent is procured or secured by UKOP, UKOP and the undertaker shall, acting reasonably and without unreasonable delay, agree the amount of third party costs and expenses that can be paid by UKOP to the third party and recovered from the undertaker under this paragraph 162(1)

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 166 (Arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to UKOP by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and



- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to UKOP in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on UKOP any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Subject to sub-paragraph (2), if by reason or in consequence of the construction of the authorised works (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) on property of UKOP, or there is any interruption in any service provided, or in the supply of any goods, by UKOP, the undertaker must:

- (a) bear and pay the cost reasonably incurred by UKOP in making good such damage or restoring the supply; and
- (b) make reasonable compensation for any other expenses, loss, damages, penalty or costs incurred by UKOP,

by reason or in consequence of any such damage or interruption.

(7) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of UKOP, its officers, servants, contractors or agents.

(8) UKOP must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

## **Miscellaneous**

**163.** Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between UKOP and the undertaker, nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and UKOP in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

## **Co-operation**

**164.**—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or UKOP requires the removal of apparatus under paragraph 159(2) or UKOP makes requirements for the protection or alteration of apparatus under paragraph 160, the undertaker must use reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of UKOP's undertaking and UKOP must use reasonable endeavours to co-operate with the undertaker for that purpose including using reasonable endeavours (at the undertaker's cost) to assist the undertaker to procure and/or secure any consent and entering into of any deeds and/or variations by other third parties required in connection with this Part of this Schedule.

(2) For the avoidance of doubt whenever UKOP's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

## **Access**

**165.** If in consequence of the agreement reached in accordance with paragraph 158(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable UKOP to maintain or use the apparatus no less effectively than was possible before such obstruction.

## **Arbitration**

**166.** Any difference or dispute arising between the undertaker and UKOP under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and UKOP, be determined by arbitration in accordance with article 48 (arbitration).

## **Notices**

**167.** Notwithstanding article 45 (service of notices), any plans submitted to UKOP by the undertaker pursuant to this Part must be sent to the then Company Secretary of UKOP at its then current registered address or such other address as UKOP may from time to time appoint instead for that purpose and notify to the undertaker in writing.

## **Deviation of authorised development**

**168.** Notwithstanding article 5 of the Order (Power to maintain the authorised development) the undertaker is not permitted to install or deviate vertically the authorised works to a limit less than 2.5 metres below the surface of the ground and no closer than 600mm provided that where directional drilling methods are to be used this minimum distance shall be increased to a 1.5 metre clearance from the apparatus.

# **PART 14**

## **For the protection of PEEL NRE Limited**

**169.** The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Peel and, in the case of paragraph 183 of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

**170.** In this Part of this Schedule—

"alternative access road(s)" means the existing access road at Plots 1-01a and 1-01 as identified on the Land Plans and the access road proposed to be constructed by Peel to connect Plot 1-01a to Plot 1-04 as identified on the Land Plans D2.2 Sheet 1 pursuant to planning application Ref: 23/01239/FUL for construction of gas fired electricity generators, enclosures with ancillary equipment, metering station, transformer compound and access from Grinsome Road;

"existing access road" means the existing access road over Plot 1-01 as identified on the Land Plans;

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"CEMP" means Construction Environmental Management Plan;

"CTMP" means Construction Traffic Management Plan;

"LEMP" means Landscaping Environmental Management Plan;

"DEMP" means Decommissioning Environmental Management Plan;

"Network Rail Standard" means Network Rail Standard reference 'NR/L2/CIV/044 'Planning, Design and Construction of Undertrack Crossings';

"Peel" means Peel NRE Limited (company number 04480419), whose registered office is at Venus Building, 1 Old Park Lane, Traffordcity, Manchester, M41 7HA and any associated company of Peel NRE Limited which holds property;

"plans" includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of relevant property;

"relevant property" means:

- (a) any land, works, apparatus and equipment belonging to Peel; and
- (b) any easement or other property interest held or used by Peel or a tenant or licensee of Peel for the purposes of such land, works, apparatus or equipment;

"specified work" means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, relevant property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (power to maintain the authorised development) in respect of such works.

"working days" Monday to Friday inclusive but excluding days which are public holidays

**171.**—(1) Where Peel is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld or delayed but may be given subject to reasonable conditions. If by the end of the period of 30 working days beginning with the date on which consent is requested Peel has not intimated their refusal together with the grounds of any such refusal, Peel will be deemed to have given its consent.

(2) In the event that Peel constructs and makes available for use by the undertaker the alternative access road the undertaker must not:

- (a) commence that part of Work No. 3 to which the existing access road relates;
- (b) use the existing access road; or
- (c) otherwise exercise the powers conferred by the provisions listed in sub-paragraph (1) over the existing access road,

provided that Peel has granted the undertaker a right to pass and repass over the alternative access road with or without vehicles.

**172.**—(1) The undertaker must before commencing construction of any specified work supply to Peel proper and sufficient plans of that work for the reasonable approval of Peel and the specified work must not be commenced except in accordance with such plans as have been approved in writing by Peel or settled by arbitration under article 48 (arbitration).

(2) The approval of Peel under sub-paragraph (1) must not be unreasonably withheld or delayed, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Peel and Peel has not intimated their disapproval together with the grounds of any such disapproval of those plans, Peel will be deemed to have approved the plans as submitted.

**173.**—(1) Any specified work must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 172;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of Peel;
- (c) in such manner as to cause as little damage as is possible to relevant property; and

(2) If any damage to relevant property or any such interference or obstruction is caused by the carrying out of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Peel all reasonable and proper expenses to which Peel may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction provided that the undertaker shall only be liable up to a maximum of £20,000,000.

(3) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Peel or its servants, contractors or agents or any liability on Peel with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

**174.**—(1) The undertaker must pay to Peel all reasonable and proper costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be reasonably incurred by Peel —

- (a) by reason of the construction, maintenance or operation of a specified work or the failure of such a work; or

- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;
- (c) in respect of any damage caused to or additional maintenance required to relevant property;

And the undertaker must indemnify and keep indemnified Peel from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission provided that the undertaker shall only be liable up to a maximum limit of £20,000,000.

(2) Peel must –

- (a) give the undertaker reasonable written notice of any such sums referred to in sub-paragraph (1) as soon as reasonably possible after Peel become aware of the same;
- (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker;
- (c) take all reasonable steps to mitigate any liabilities; and
- (d) keep the undertaker informed and have regard to the undertaker's representations in relation to any such sums referred to in sub-paragraph (1).

**175.**—(1) The undertaker must consult with Peel prior to submitting any CTMP relating to or in the vicinity of relevant property (including any CTMP affecting land adjacent to relevant property) to the relevant planning authority for approval in accordance with Requirement 6. The undertaker will provide a draft CTMP to Peel no later than 25 working days prior to submission and confirm to Peel the intended date of submission at the same time. Peel may make representations on the draft CTMP to the undertaker no later than 10 working days prior to the notified intended date of submission. The undertaker will only be required to have due regard to any representations timeously made by Peel in accordance with the timescales stipulated in this paragraph in finalising the CTMP for submission and will seek to incorporate any reasonable requests made by Peel where practicable.

(2) The undertaker must consult with Peel prior to submitting any LEMP relating to or in the vicinity of relevant property (including any LEMP affecting land adjacent to relevant property) to the relevant planning authority for approval in accordance with Requirement 11. The undertaker will provide a draft LEMP to Peel no later than 25 working days prior to submission and confirm to Peel the intended date of submission at the same time. Peel may make representations on the draft LEMP to the undertaker no later than 10 working days prior to the notified intended date of submission. The undertaker will have due regard to any representations made by Peel in finalising the LEMP for submission and will seek to incorporate any reasonable requests made by Peel where practicable.

(3) The undertaker must consult with Peel prior to submitting any CEMP relating to or in the vicinity of relevant property (including any CEMP affecting land adjacent to relevant property) to the relevant planning authority for approval in accordance with Requirement 5. The undertaker will provide a draft CEMP to Peel no later than 25 working days prior to submission and confirm to Peel the intended date of submission at the same time. Peel may make representations on the draft CEMP to the undertaker no later than 10 working days prior to the notified intended date of submission. The undertaker will have due regard to any representations made by Peel in finalising the CEMP for submission and will seek to incorporate any reasonable requests made by Peel where practicable.

(4) The undertaker must consult with Peel prior to submitting any DEMP relating to or in the vicinity of relevant property (including any DEMP affecting land adjacent to relevant property) to the relevant planning authority for approval in accordance with Requirement 19. The undertaker will provide a draft DEMP to Peel no later than 25 working days prior to submission and confirm to Peel the intended date of submission at the same time. Peel may make representations on the draft DEMP to the undertaker no later than 10 working days prior to the notified intended date of submission. The undertaker will have due regard to any representations made by Peel in finalising the LEMP for submission and will seek to incorporate any reasonable requests made by Peel where practicable.

**176.** The undertaker will procure that in carrying out Work No. 4 at Plots 1-19, 1-20, 1-22, 1-23 and 1-24, as identified on the Land Plans, the Network Rail Standard (as in force when the works are being carried out) shall be complied with.

## PART 15

### Protection of Encirc Limited

**177.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and Encirc.

**178.** In this Part—

"Ash Road bridge" means the rail bridge crossing Ash Road;

"COMAH Regulations" means the Control of Major Accident Hazards Regulations 2015;

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"CTS Meetings" means construction and traffic scheduling meetings to discuss a schedule in relation to the co-ordination of traffic movements relating to the specified works.

"Encirc" means Encirc Limited (company number NI030990, whose registered office is at 11 Gortahurk Road, Tonymore Derrylin, Enniskillen, Fermanagh, BT92 9DD and any associated company of Encirc Limited which holds property;

"Encirc's business and operations" means the current operations and business carried out at the Encirc site and also includes any future business and operations of the Encirc site once the future development works have been implemented;

"Fence" means the existing fence erected by Encirc along the boundary between plots 1-02 and 1-06 as identified on the Land Plans;

"fit for purpose" means a road or access route which is of a standard equivalent to or better than the standard of the road or access route included in the Order for the same purpose;

"future development works" means;

- (a) construction of automated warehouse including automated link to glass manufacturing and filling facility, ancillary office space, driver welfare building, security building, HGV parking and marshalling yard and other associated works (LPA Ref: 22/03693/FUL) or any variation to or alternative to that form of development effecting Land Plan Plots 1-02 and 1-06 (Ref Land Plan D2.2 Sheet 1); and
- (b) construction of hydrogen/electricity fired furnace on site of existing dispatch yard and surrounding area effecting Land Plan Plot 1-02 (Ref: Land Plan D2.2 Sheet 1); and
- (c) construction of new rail sidings and intermodal area between existing rail sidings and Network Rail main line effecting Land Plan Plots 1-06, 1-06a 1-20, 1-21 and 1-22 (Ref: Land Plan D2.2 Sheet 1).

"Network Rail Standard" means Network Rail Standard reference 'NR/L2/CIV/044 'Planning, Design and Construction of Undertrack Crossings';

"Peel" means Peel NRE Limited (company number 004480419), whose registered office is at Venus Building, 1 Old Park Lane, Traffordcity, Manchester, M41 7HA;

"Existing Peel access road" means the existing access road at Plots 1-01a and 1-01 as shown on the Land Plans

"Proposed Peel access road(s)" means the access road(s) proposed to be constructed to connect Plot 1-01a to Plot 1-04 as identified on the Land Plans D2.2 Sheet 1 pursuant to planning application Ref: 23/01239/FUL for construction of gas fired electricity generators, enclosures with ancillary equipment, metering station, transformer compound and access from Grinsome Road;

"Peel access road(s)" means collectively the Existing Peel access road and the Proposed Peel access road(s) and being fit for purpose to allow the undertaker access to Plot 1-01 and between Plots 1-01a and 1-04;

"relevant property" means:

- (a) any land, works, apparatus and equipment belonging to Encirc; and

- (b) any easement or other property interest held or used by Encirc or a tenant or licensee of Encirc for the purposes of such land, works, apparatus or equipment;

"specified work" means so much of any of the authorised development as is situated upon, across, under, over, or may in any way adversely affect, relevant property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (power to maintain the authorised development) in respect of such works.

### **Rights of access**

**179.** Regardless of any provision of this Order or anything shown on the land plans, the undertaker-

- (a) Must not extinguish any rights of access to the relevant property granted to Encirc otherwise than by agreement (both parties acting reasonably);
- (b) must provide a minimum of two working days notification prior to each entry to the relevant property, such notice to be submitted in writing to facilities.elton@encirc360.com., and a single notification may cover multiple dates of entry;
- (c) provide any such details relating to the required access as is reasonably required by Encirc;
- (d) comply with any reasonable conditions which Encirc may specify in relation to the undertaker's entry to the relevant property but only to the extent they do not restrict or impede the ability of the undertaker to construct, operate or maintain the authorised development;
- (e) must keep any existing roads used for access to the relevant property by Encirc clean but only to the extent they have been dirtied as a result of the specified works, clear from obstruction and in a usable condition as far as reasonably practicable; and
- (f) must pay a fair and reasonable proportion (according to use) of the costs incurred by Encirc in repairing and maintaining the entirety of Ash Road.

**180.** The parties shall hold the CTS Meetings fortnightly during detailed design and construction of the specified works. The undertaker and Encirc shall use all reasonable but commercially prudent endeavours to agree a schedule in relation to the co-ordination of traffic movements relating to the specified works. Where a schedule is agreed the parties will use the access routes only in accordance with the agreed schedule.

### **Rights of access – Grinsome Road to the Protos Site**

**181.** Subject to paragraph 183 (Rights of access – Ash Road (South)), provided that (a) Peel has constructed the Peel access road(s) prior to the undertaker completing that part of Work No. 3 which relates to Land Plans Plots 1-01a, 1-01, 1-02, 1-03 and 1-04, (b) Peel has granted the undertaker an easement for all rights of access required by the undertaker over the Peel access road(s) and Land Plans Plot 1-04 to ensure the undertaker has suitable access (to the undertaker's satisfaction) to Plots 1-05, 1-08, 1-09, 1-10, 1-11, 1-12, 1-13, 1-14, 1-15, 1-16, 1-17 and 1-18, and (c) the undertaker is satisfied that the Peel access road(s) are/ is fit for purpose for the purposes of Work No.1, No.2, No. 3 and No.4:

- (a) The undertaker must not exercise the Powers conferred by this Order to (a) appropriate or acquire or take temporary possession of Land Plans Plots 1-02 and 1-03, or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right held by Encirc over Land Plans Plots 1-01a and 1-01

**182.** The undertaker shall use all reasonable but commercially prudent endeavours to secure the grant by Peel of an easement for all rights of access required by the undertaker over the Peel access road(s) and Plot Plans Plot 1-04 to ensure the undertaker has suitable access (to the undertaker's satisfaction) to Plots 1-05, 1-08, 1-09, 1-10, 1-11, 1-12, 1-13, 1-14, 1-15, 1-16, 1-17 and 1-18.

### **Rights of access – Ash Road (South)**

**183.** Subject to Paragraph 184 (Rights of Access – Abnormal Loads), the undertaker must use the entrance from Ash Road as the primary access route (over Plots 1-06, 1-06a, 1-06b and 1-06c as identified on the Land Plans) for construction activities within Plots 1-20, 1-21 and 1-22. Provided that Encirc has granted to the undertaker a suitable right of access across a fit for purpose access route (to the undertaker's satisfaction) to all of Plot 1-22 as identified on the Land Plans as required by the undertaker:

- (a) The undertaker may in relation to Plot 1-21 exercise its powers under article 34 (temporary use of land for carrying out the authorised development) for the purpose of temporary use as a construction working area and for access only; and
- (b) The undertaker may not exercise the powers conferred under article 26 (compulsory acquisition of rights and restrictive covenants) in relation to Land Plans Plot 1-21 without the prior consent in writing of Encirc.

### **Rights of Access – Abnormal Loads**

**184.** In respect of abnormal loads, the undertaker may use the access route over Grinsome Road, being either (a) over Plots 1-01a, 1-01, 1-02, 1-03, 1-06, and 1-06d as identified in the Lands Plans, (b) over a route to be determined from Plots 1-01a, 1-01, part of 1-02, and from a point of egress (to be determined) in Plot 1-02 to the north end of Plot 1-06 subject to Encirc granting to the undertaker a suitable right of access across such route which must be a fit for purpose route (to the undertaker's satisfaction), or (c) over a route to be determined from that part of the Peel access road(s) constructed pursuant to planning permission reference 22/0363/FUL over Plots 1-03 and 1-02, and from an egress in Plot 1-02 (to be determined) to the north end of Plot 1-06 subject to Encirc granting to the undertaker a suitable right of access across such route which must be a fit for purpose route (to the undertaker's satisfaction) Use of any of the above routes is subject to the following conditions:

- (a) The undertaker must provide a minimum of two working days notification prior to use of the construction access, writing to be provided to facilities.elton@encirc360.com;
- (b) The undertaker must not take access through the Fence unless and until Encirc have confirmed the written approval of HMRC and shall not take any steps which would lead to Encirc being in breach of any obligations to HMRC;
- (c) The undertaker shall comply with all reasonable conditions imposed by Encirc when taking access through the Fence and shall notify Encirc immediately if there is a breach of any such condition;
- (d) The undertaker will use all reasonable endeavours to take access through the Fence in such a manner as to cause as little damage as reasonably practicable and shall inform Encirc immediately if any damage is caused to the Fence including providing full details of the location and the damage caused.
- (e) The undertaker must pay to Encirc all reasonable and proper costs incurred by Encirc in providing reasonably necessary security detail to escort abnormal loads through the Fence;
- (f) The undertaker must make good any damage to the Fence as soon as reasonably practicable and must pay to Encirc all documented reasonable and proper expenses to which Encirc may be put and any compensation for any direct loss which it may sustain by reason of such damage provided that at all times Encirc will be under an obligation to take reasonable steps to mitigate its loss.

### **Railway**

**185.**—(1) The undertaker will procure that in carrying out Work No. 4 at Plots 1-19, 1-20, 1-22, 1-23 and 1-24, as identified on the Land Plans:

- (a) The Network Rail Standard (as in force when the works are being carried out) shall be complied with;

- (b) All crossings under the existing railway lines (or any future development works installed by Encirc at the relevant property prior to the commencement of Work No. 4) will use trenchless crossing methods;
- (c) COMAH Regulations shall be complied with.

(2) The undertaker must—

- (a) at all times before, during and after the construction of the specified works allow an engineer or other person appointed by Encirc to watch and inspect the execution of the specified work; and
- (b) supply the appointed person with all such information and all relevant and available documents as they may reasonably require with regard to the method of constructing a specified work.

(3) Encirc shall provide details of their scheduled trains at the relevant property to the undertaker on a monthly basis at CTS Meetings, and the undertaker and Encirc shall use all reasonable but commercially prudent endeavours to agree at the CTS Meetings provision to enable the authorised development and the operation of the scheduled trains. Where Encirc advise the undertaker of any changes to the schedule as soon as reasonably practicable, the undertaker shall use all reasonable endeavours to minimise interference of the carrying out of the specified works with the operation of Encirc's re-scheduled trains.

### **Construction Traffic Management Plan**

**186.** The undertaker must consult with Encirc prior to submitting any CTMP to the relevant planning authority for approval in accordance with Requirement 6. The undertaker will provide a draft CTMP to Encirc no later than 20 working days prior to submission, and confirm to Encirc the intended date of submission at the same time. Encirc may make representations on the draft CTMP to the undertaker no later than 14 days prior to the notified intended date of submission. The undertaker will have due regard to any reasonable representations timeously made by Encirc in finalising the CTMP for submission.

### **Co-operation**

**187.** Where Encirc propose to carry out any piling or construction works on the Order land within Land Plan Plots 1-20 and 1-22, prior to carrying out such works Encirc must agree with the undertaker the design and methodology which will be used, and the operational use of such works.

**188.** The undertaker and Encirc must use all reasonable but commercially prudent endeavours to reach agreement to enable the authorised development, Encirc's business and operations and any future development works to be carried out (subject to Encirc obtaining all necessary consents, permissions and authorisations).

**189.** The undertaker shall ensure that the pipeline is buried to a minimum depth of 4.3m under the existing railway ground level.

### **Specified work**

**190.** The undertaker must give Encirc no less than 56 days written notice of the intended commencement of any specified works and must include with this notification a plan and description of the works to be commenced and a programme for these works.

**191.** Any specified work must, when commenced, be constructed-

- (a) In such a manner as to cause as little damage and disruption as reasonably practicable to the relevant property, including damage by way of pollution or to the operation of Encirc's business and operations;
- (b) In such a manner so as not to cause any breaches of Encirc's obligations to HMRC or under the COMAH Regulations; and



- (c) If any damage to the relevant property or Encirc's business and operations or any such interference or obstruction is caused by the carrying out of the construction of a specified work, the undertaker must promptly inform Encirc of such damage, must make good such damage and must pay to Encirc all reasonable and proper expenses to which Encirc may be put and any compensation for any loss which it may sustain by reason of such damage, interference or obstruction, provided that at all times Encirc will be under an obligation to take reasonable steps to mitigate its loss.

## **Expenses**

**192.**—(1) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Encirc or its servants, contractors or agents or any liability on Encirc with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

(2) The undertaker must pay to Encirc all reasonable and proper costs, charges, penalties, damages and expenses not otherwise provided for in this Part of this Schedule which may be reasonably incurred by Encirc, provided that at all times Encirc will be under an obligation to take reasonable steps to mitigate its loss -

- (a) by reason of the construction, maintenance or operation of a specified work or the failure of such a work; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;
- (c) in respect of any damage caused to or additional maintenance required to relevant property
- (d) in respect of any damage to any access routes to the relevant property for which Encirc have a maintenance obligation but always limited to the extent such damage is attributable to the undertaker and the undertaker has not reimbursed the costs of remediation of such damage under sub-paragraph (e);
- (e) in respect of any claim against Encirc by any third party in respect of the access routes to the extent such claim relates to damage to the access routes but always limited to the extent such damage is attributable to the undertaker and the undertaker has not reimbursed the costs of remediation of such damage under sub-paragraph (d);
- (f) by the provision of reasonably necessary security detail for any land, works, apparatus and equipment belonging to Encirc to the extent attributable to the specified works;
- (g) in respect of securing any required consents from HMRC in respect of the undertaking authorised development by the undertaker.

(3) The undertaker must indemnify and keep indemnified Encirc from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission to a maximum cap on liability of £5 million for each individual claim and an aggregate cap of £15 million provided that there shall be no cap on liability in respect of any damage caused to the Ash Road bridge which prevents access to the relevant property, provided that at all times Encirc will be under an obligation to take reasonable steps to mitigate its loss Encirc must-

- (a) give the undertaker reasonable written notice of any such sums referred to in paragraph 192 (3) as soon as reasonably possible after Encirc become aware of the same;
- (b) not make any offers to settle claims or demands without the prior consent of the undertaker;
- (c) take all reasonable steps to mitigate any liabilities;
- (d) where any claims or demands are made by Network Rail, advise Network Rail that any claims and demands should be directed to the undertaker only; and
- (e) keep the undertaker informed and have regard to the undertaker's representations in relation to any such sums referred to in this paragraph.

## **General**

**193.** (1) Any difference or dispute arising between the undertaker and Encirc under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Encirc, be determined by arbitration in accordance with article 48 of this Order.

(2) The undertaker and Encirc must each act reasonably in connection with the implementation of this Part of this Schedule.

## **Notices**

**194.** Any plans or notices submitted to Encirc by the undertaker pursuant to this Part must be sent to Encirc at [legal@encirc360.com](mailto:legal@encirc360.com) or such other address as Encirc may from time to time appoint instead for that purpose and notify to the undertaker in writing.

# **PART 16**

## **For the protection of Welsh Ministers as Strategic Highway Authority**

### **Application**

**195.** The provisions of this Part have effect for the protection of the Welsh Ministers (“the WM”) as the Highway Authority for the strategic road network in Wales, in addition to all other applicable statutory protections, unless otherwise agreed in writing between the undertaker and the WM.

### **Interpretation**

**196.** In this Part—

“highway structure” means any bridge, subway, culvert, pipe, tunnel, manhole, chamber, wall, reinforced soil embankment, piece of street furniture, building or other structure built in, over, under or adjacent to any part of the highway which materially affects the support of that highway and/or the safety of the travelling public;

“strategic highway” means any part of the highway network including trunk roads or special roads which the WM are responsible for;

“NMWTRA” means the North and Mid Wales Trunk Road Agency, who act as the highway agents of the WM and exercise functions relating to the management and operation of the relevant part of the strategic highway on behalf of the WM pursuant to an agreement between the WM and Gwynedd Council under section 6 of the Highways Act 1980. In practice therefore, the procedural matters contained in this Part will be largely dealt with by NMWTRA on behalf of the WM; and

“works” means—

- (a) that part of Work No. 39 which requires the trenchless installation of the pipeline under the A494 (Aston Expressway) highway;
- (b) that part of Work No. 44 which requires the open cut installation of the pipeline under the verge of the A55 adjacent to Junction 33a, heading north under Chester Road; or
- (c) any other work forming part of the authorised development within or which affects or requires occupation of the strategic highway.

### **Approvals**

**197.** The crossing of the A494 and its associated assets must only be carried out by trenchless techniques. The installation of the pipeline under the verge of the A55 adjacent to Junction 33a, heading north under Chester Road shall be carried out as open cut installation.

**198.**—(1) Prior to the commencement of the works the undertaker must obtain the written approval of the WM to such works.

- (2) When requesting approval under sub-paragraph (1), the undertaker must submit to the WM:
- (a) Copy of location plan to a scale not less than 1/10,000 showing the location and/or proposed route and siting of the works;
  - (b) Details of the methodology of the works;
  - (c) Details of the proposed timing of the works;
  - (d) Details of any traffic management measures (including signage) proposed in connection with the works; and
  - (e) Where approval is sought for works to or within the carriageway of a strategic highway, evidence of NHSS (National Highways Sector Scheme) certification and Street Works Qualifications.

**199.** No crossing is to take place until a monitoring regime and the Geotechnical Design Report (GDR as defined by the DMRB CD622 Managing Geotechnical Risk) is agreed and certified by the WM.

**200.** Technical Approval from WM in accordance with DMRB CG300 is required in advance of any part of the works which is likely to affect any existing highway structure(s).

**201.** Approval under this Part may be sought in one or more applications.

**202.** Any approval of the WM under this Part may be given subject to such reasonable requirements or conditions as the WM may determine.

**203.** The undertaker must contact any owners or operators of apparatus in, on, over, under or near the strategic highway including other statutory undertakers to ascertain whether their existing or proposed apparatus to within or under the strategic highway is likely to be affected by the works. The undertaker must comply with the reasonable requirements and conditions imposed by the owners or operators relating to the protection of existing apparatus in, on, over, under or near the strategic highway likely to be affected by the works.

**204.** The undertaker must pay a fee of £250 to the WM with any application for approval under this Part.

### **Indemnity**

**205.** The undertaker indemnifies the WM against any and all claims in respect of injury, damage or loss arising out of—

- (a) the placing or presence in the strategic highway of apparatus as part of the works; or
- (b) the excavation by any person of any works within the strategic highway,

always provided that the undertaker shall not be liable for any consequential loss or any indirect loss under any circumstances.

**206.** The undertaker (or any person carrying out works on its behalf) must have and maintain in force for the duration of any works to or within the strategic highway network, public liability/third party insurance to the sum of £10 million covering its liability under paragraph 205. The undertaker must provide evidence of such insurance to the WM if requested.

### **Traffic management**

**207.** The undertaker must contact the NMWTRA, the WM RA Control Room, North Wales Traffic Management Centre, Ffordd Sam Parri, Morfa, Conwy, LL32 8HH – Telephone number 01492 564790 before erecting or removal of traffic management measures on the strategic highway on each occasion that erection or removal is required.

**208.** The undertaker must execute the works in strict accordance with the requirements contained in Chapter 8 of the Traffic Signs Manual (2009) as published by Her Majesty's Stationery Office HMSO and any amendments thereof.

### **Inspections**

**209.** The WM or any person authorised by them for this purpose is entitled to inspect any works to, within or under the strategic highway while such works are being carried out and following completion of such works.

**210.** Exercise of the right to inspect under paragraph 209 must be carried out reasonably, in compliance with any requirements of any health and safety requirements in place within the site of any works, and in accordance with the instructions of the undertaker.

**211.**—(1) The undertaker must compensate the WM in respect of any loss, damage, charge, cost or expense reasonably suffered or incurred by the WM as a result of the execution, use or maintenance of the works.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect of—

- (a) any damage or interruption to the extent that it is attributable to the act, neglect or default of WM, its officers, employees, contractors or agents; and / or
- (b) any indirect or consequential loss of WM or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption).

### **Reinstatement**

**212.** Any reinstatement of the strategic highway required in connection with or as a consequence of the works must be carried out in strict conformity with the Code of Practice "Specification for the Reinstatement of Openings in Highways".

**213.**—(1) Where, in the reasonable opinion of the WM, any reinstatement carried out by the undertaker is defective, three defect inspections will be carried out comprising:

- (a) A joint inspection by the WM and the undertaker to determine the nature of the failure and what remedial works need to be carried out;
- (b) Inspection by or on behalf of the WM of remedial works in progress; and
- (c) Inspection by or on behalf of the WM when remedial works have been completed.

(2) The undertaker must pay an inspection fee of £47.50 for each inspection carried out under this paragraph.

**214.** Any and all reasonable costs associated with the reinstatement work will be met by the undertaker.

### **Notice of completion of Works**

**215.** The undertaker must notify the WM of the completion of works approved by the WM under this Part within 10 working days of such completion.

**216.** The undertaker must supply the WM with as built records of any apparatus sited within or under the strategic highway within 20 working days of the completion of works, including, in particular, the location and depth of any electrical cables on a plan to a scale of 1/500 with a longitudinal and vertical accuracy of + or - 100mm.

**217.** The undertaker must submit a Geotechnical Feedback Report (GFR as defined in the DMRB CD622 Managing Geotechnical Risk) including all monitoring results and as built drawings to the WM no later than six months from the date of completion.

**218.** After the apparatus has been placed, the undertaker must not carry out any further works or maintenance to the apparatus or works or any other works involving excavation within the boundaries of the strategic highway without the prior written approval of the WM, such approval not to be unreasonably withheld or delayed, and any such works must be carried out and completed to the reasonable satisfaction of WM.

### **Arbitration**

**219.** Any difference or dispute arising between the undertaker and the WM under this Part must, unless otherwise agreed in writing between the undertaker and the WM, be determined by arbitration in accordance with article 48 (arbitration).

### **Notices**

**220.** The plans submitted to the WM by the undertaker pursuant to this Part must be submitted to North & Mid Wales Trunk Road Agent, Unit 5 Llys Britannia, Parc Menai, Bangor, Gwynedd, LL57 4BN and [streetworks@nmwtra.org.uk](mailto:streetworks@nmwtra.org.uk) or such other address as the WM may from time to time appoint instead for that purpose and notify to the undertaker in writing.

### **Maintenance**

**221.** The undertaker must maintain the apparatus in an appropriate state of repair and condition. The undertaker must if required place and maintain within the limits of the said highway suitable permanent signs of a type and in positions to be approved by the WM for the purpose of indicating as nearly as possible the exact position under the highway in which the said apparatus is laid.

## **PART 17**

### **For the protection of National Highways Limited**

#### **Application etc.,**

**222.** The provisions of this Part of this Schedule apply for the protection of National Highways and have effect unless otherwise agreed in writing between the undertaker and National Highways.

#### **Interpretation**

**223.—**(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with subparagraph (2) the latter prevail.

(2) In this Part of this Schedule—

“acceptable security” means either:

- (a) a parent company guarantee from a parent company in favour of National Highways to cover the undertaker’s liability to National Highways to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Highways and where required by National Highways, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or
- (b) a bank bond or letter of credit from an acceptable credit provider in favour of National Highways to cover the undertaker’s liability to National Highways for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Highways);

“as built information” means one electronic copy of the following information—

- (a) as constructed drawings in both PDF and AutoCAD DWG formats showing the location and depth of the pipeline as installed and any ancillary or protective measures installed within the strategic road network;
- (b) as constructed information for any utilities discovered or moved during the specified works;
- (c) method statements for the specified works carried out;
- (d) in so far as it is relevant to the specified works, the health and safety file; and
- (e) such other information as is reasonably required by National Highways to be used to update all relevant databases and to ensure compliance with National Highway's Asset Data Management Manual as is in operation at the relevant time.

“condition survey” means a survey of the condition of National Highways structures and assets within the Order limits that may be affected by the specified works;

“contractor” means any contractor or subcontractor appointed by the undertaker to carry out the specified works;

“detailed design information” means such of the following drawings specifications and calculations as are relevant to the specified works—

- (a) site clearance details;
- (b) boundary, environmental and mitigation fencing;
- (c) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;
- (d) utilities diversions; and
- (e) other such information that may be reasonably required by National Highways to be used to inform the detailed design of the specified works;

“DMRB” means the Design Manual for Roads and Bridges or any replacement or modification of it;

“the health and safety file” means the file or other permanent record containing the relevant health and safety information for the specified works required by the Construction Design and Management Regulations 2015 (or such updated or revised regulations as may come into force from time to time);

“nominated persons” means the undertaker's representatives or the contractor's representatives on site during the carrying out of the specified works as notified to National Highways from time to time;

“parent company” means a parent company of the undertaker acceptable to National Highways acting reasonably;

“programme of works” means a document setting out the sequence and timetabling of the specified works;

“specified works” means so much of the authorised development, including any maintenance of that work, as is on, in, under or over the strategic road network for which National Highways is the highway authority, and specifically including Work No.12 in so far as that crosses the M56 motorway, Work No.16 in so far as that crosses the M53 motorway, and Work No. 22 in so far as that crosses the A41 highway.

“strategic road network” means any part of the road network including trunk roads, special roads or streets for which National Highways is the highway authority including drainage infrastructure, street furniture, verges and vegetation and all other land, apparatus and rights located in, on, over or under the highway;

“utilities” means any pipes wires cables or equipment belonging to any person or body having power or consent to undertake street works under the New Roads and Street Works Act 1991; and

(3) References to any standards, manuals, contracts, Regulations and Directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to

be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

## **General**

**224.** The undertaker acknowledges that parts of the works authorised by this Order affect or may affect parts of the strategic road network in respect of which National Highways may have appointed or may appoint a highway operations and maintenance contractor.

**225.** Notwithstanding the limits of deviation permitted pursuant to article 6 (limits of deviation) of this Order, no works in carrying out, maintaining or diverting the authorised development may be carried out under the strategic road carriageway at a distance less than 4 metres below the lowest point of the carriageway surface.

**226.** References to any standards, manuals, contracts, regulations and directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

## **Prior approvals and security**

**227.**—(1) Any specified works which involve tunnelling, boring or otherwise installing the pipeline under the strategic road network without trenching from the surface, must be designed by the undertaker in accordance with DMRB CD622 unless otherwise agreed in writing by National Highways.

(2) The specified works must not commence until—

- (a) the programme of works has been approved by National Highways;
- (b) the detailed design of the specified works comprising of the following details, insofar as considered relevant by National Highways, has been submitted to and approved by National Highways—
  - (i) the detailed design information;
  - (ii) the identity and suitability of the contractor and nominated persons; and
  - (iii) a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker;
- (c) a condition survey and regime of monitoring of any National Highways assets or structures that National Highways reasonably considers will be affected by the specified works, has been agreed in writing by National Highways; and
- (d) an acceptable security in favour of National Highways for the indemnity set out in paragraph 232 below has been put in place, which security must be maintained in place until the expiry of 12 months following the completion of all of the specified works.

(3) National Highways must, prior to the commencement of the specified works, inform the undertaker of the identity of the person who will act as a point of contact on behalf of National Highways for consideration of the information required under sub-paragraph (2).

(4) Any approval of National Highways required under this paragraph—

- (a) must not be unreasonably withheld;
- (b) must be given in writing;
- (c) shall be deemed to have been given if neither given nor refused within 2 months of the receipt of the information for approval or, where further particulars are requested by National Highways (acting reasonably) within 2 months of receipt of the information to which the request for further particulars relates; and
- (d) may be subject to any reasonable conditions as National Highways considers necessary.

(5) Any change to the identity of the contractor and/or designer of the specified works will be notified to National Highways immediately and details of their suitability to deliver the specified works will be provided on request.

(6) Any change to the detailed design of the specified works must be approved by National Highways in accordance with paragraph 227(2) of this Part.

### **Construction of the specified works**

**228.**—(1) The undertaker must give National Highways 28 days' notice in writing of the date on which the specified works will start.

(2) The specified works must be carried out by the undertaker to the reasonable satisfaction of National Highways in accordance with—

- (a) the relevant detailed design information and programme of works approved pursuant to paragraph 227(2) above or as subsequently varied by agreement between the undertaker and National Highways;
- (b) in so far as it may be applicable, the DMRB, save to the extent that exceptions from those standards apply which have been approved by National Highways; and
- (c) all aspects of the Construction (Design and Management) Regulations 2015 or any statutory amendment or variation of the same.

(3) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by National Highways (whose identity must have been previously notified to the undertaker by National Highways) to gain access to the specified works for the purposes of inspection and supervision of the specified works.

(4) If any part of the specified works is constructed-

- (a) other than in accordance with the requirements of this Part of this Schedule; or
- (b) in a way that causes damage to the highway, highway structure or asset or any other land of National Highways,

National Highways may by notice in writing require the undertaker, at the undertaker's own expense, to comply promptly with the requirements of this Part of this Schedule or remedy any damage notified to the undertaker under this Part of this Schedule, to the satisfaction of National Highways, acting reasonably.

(5) If during the carrying out of the authorised development the undertaker or its appointed contractors or agents causes damage to the strategic road network then National Highways may by notice in writing require the undertaker, at its own expense, to remedy the damage.

(6) If within 28 days on which a notice under sub-paragraph (4) or sub-paragraph (5) is served on the undertaker (or in the event of there being, in the opinion of National Highways, a danger to road users, within such lesser period as National Highways may stipulate), the undertaker has failed to take the steps required by that notice, National Highways may carry out the steps required of the undertaker and may recover any expenditure reasonably incurred by National Highways in so doing.

(7) Nothing in this Part of this Schedule prevents National Highways from carrying out any work or taking any such action as it reasonably believes to be necessary as a result of or in connection with the carrying out or maintenance of the authorised development without prior notice to the undertaker in the event of an emergency or to prevent the occurrence of danger to the public and National Highways may recover any expenditure it reasonably incurs in so doing.

(8) In constructing the specified works, the undertaker must at its own expense divert or protect all utilities.

(9) The undertaker must notify National Highways if it fails to complete the specified works in accordance with the agreed programme of works pursuant to paragraph 227(2)(b) of this Part, or suspends the carrying out of any specified work beyond 14 days, and National Highways reserves the right to withdraw any road space booking granted to the undertaker to ensure compliance with its network occupancy requirements.



## **Payments**

**229.**—(1) The undertaker must pay to National Highways a sum equal to the whole of any reasonable costs and expenses which National Highways incurs (including costs and expenses for using internal or external staff and costs relating to any work which becomes abortive) in relation to the specified works and in relation to any approvals sought under this Order, or otherwise incurred under this Part, including—

- (a) the checking and approval of the information required under paragraph 227(2);
- (b) the supervision of the specified works;
- (c) any costs reasonably incurred under paragraph 228(7) of this Part, and
- (d) any value added tax which is payable by National Highways in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs, together comprising “the NH costs”.

(2) National Highways must provide the undertaker with a schedule showing its reasonable estimate of the NH costs prior to the commencement of the specified works and the undertaker must pay to National Highways the reasonable estimate of the NH costs prior to commencing the specified works and in any event prior to National Highways incurring any cost.

(3) If at any time after the payment referred to in sub-paragraph (2) has become payable, National Highways reasonably believes that the NH costs will exceed the reasonably estimated NH costs it may give notice to the undertaker of the amount that it reasonably believes the NH costs will exceed the estimate of the NH costs (the excess) and the undertaker must pay to National Highways within 28 days of the date of the notice a sum equal to the excess.

(4) National Highways must give the undertaker a final account of the NH costs referred to in sub-paragraph (1) above within 91 days of the date of completion of the specified works as set out in the programme of works.

(5) Within 28 days of the issue of the final account:

- (a) if the final account shows a further sum as due to National Highways the undertaker must pay to National Highways the sum shown due to it; or
- (b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by National Highways, National Highways must refund the difference to the undertaker.

(6) If any payment due under sub-paragraph (2) above, is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 3% above the Bank of England base lending rate from time to time being in force for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

## **Condition survey and as built details**

**230.**—(1) The undertaker must, as soon as reasonably practicable after completing the specified work, arrange for any highways structures and assets that were the subject of the condition survey under paragraph 227(2)(c) to be re-surveyed and must submit the re-survey to National Highways for its approval. The re-survey will include a renewed geotechnical assessment required by DMRB CD622 if the specified works include any works beneath the strategic road network.

(2) If the re-surveys carried out pursuant to sub-paragraph 230(1) indicates that any damage has been caused to a structure or asset, the undertaker must submit a scheme for remedial works in writing to National Highways. National Highways must remedy any damage identified in the re-surveys and National Highways may recover any expenditure it reasonably incurs in so doing from the undertaker

(3) The undertaker must make available to National Highways upon request copies of any survey or inspection reports produced pursuant to any inspection or survey of any specified work following its completion that the undertaker may from time to time carry out.

(4) Within 30 days of completion of the specified works, the as built details must be provided by the undertaker to National Highways.

### **Insurance**

**231.** Prior to the commencement of the specified works the undertaker must effect and maintain in place until the completion of all of the specified works, public liability insurance with an insurer in the minimum sum of £10,000,000.00 (ten million pounds) in respect of any one claim against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of specified works or use of the strategic road network by the undertaker.

### **Indemnity**

**232.** The undertaker fully indemnifies National Highways from and against all reasonable costs, claims, expenses, damages, losses and liabilities suffered by National Highways directly arising from the construction, maintenance or use of the specified works or exercise of or failure to exercise any power under this Order within 30 days of demand save for any loss arising out of or in consequence of any negligent act or default of National Highways and always excluding any indirect or consequential loss suffered by National Highways.

### **Maintenance of the specified works**

**233.—(1)** The undertaker must, prior to the commencement of any works of external maintenance to the specified works, give National Highways 28 days' notice in writing of the date on which those works will start unless otherwise agreed by National Highways, acting reasonably. Works of inspection or maintenance undertaken from within the pipeline will not be subject to this paragraph.

(2) If, for the purposes of maintaining the specified works, the undertaker needs to occupy any road space, the undertaker must comply with National Highways' road space booking requirements and no maintenance of the specified works for which a road space booking is required shall commence without a road space booking having first been secured.

(3) The undertaker must comply with any reasonable requirements that National Highways may notify to the undertaker, such requirements to be notified to the undertaker not less than 14 days' in advance of the planned commencement date of the maintenance works.

### **Land**

**234.—(1)** The undertaker must not, in reliance on or in exercise of any power under this Order, interfere with, remove, damage or prevent or impair the functioning of, and must on reasonable request (or in case of emergency, on demand) allow access by National Highways to, the highway drainage assets located in plots 2-14, 4-20, 5-01, 5-02, 5-03, 5-04, 5-10, 5-12, 5-14, 5-15, 5-20, 5-22, 5-23, 6-02, 6-03 6-04, 6-05, 6-06,

(2) The undertaker must not, in reliance on or in exercise of any power under this Order, interfere with, remove or prevent access by National Highways in pursuance of any right held over plots 2-03, 2-14 and 5-05.

(3) The undertake must not, in reliance on or in exercise of any power under this Order, acquire, extinguish or remove any right National Highways holds for the purposes of its undertaking in any of the plots listed in sub-paragraphs (1) and (2) and plot 9-04.

### **Expert Determination**

**235.—(1)** Article 48 (arbitration) of the Order does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule may be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) On notification by either party of a dispute, the parties must jointly instruct an expert within 14 days of notification of the dispute.

(4) All parties involved in settling any difference must use all reasonable but commercially prudent endeavours to do so within 21 days from the date that an expert is appointed.

(5) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 7 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;
- (c) issue a decision within 7 days of receipt of the submissions under sub-paragraph (b); and
- (d) give reasons for the decision.

(6) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 48 (arbitration).

(7) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

## PART 18

### For the protection of local highway authorities

**236.** The provisions of this Part of this Schedule have effect unless otherwise agreed in writing between the undertaker and the relevant local highway authority.

**237.** In this Part of this Schedule—

“Consents” means approvals, consents, licences, permissions, or registrations;

“RSA” or “Road Safety Audit” means a review of the proposed design or any works and any road safety impacts carried out in accordance with the Design Manual for Roads and Bridges or such other standard as the undertaker and the relevant local highway authority may agree;

“highway” means a highway vested in or maintainable by the relevant local highway authority as highway authority under the 1980 Act and this definition shall include any bridge or structure carrying a highway;

“relevant local highway authority” means in relation to highways within Cheshire West and Chester, Cheshire West and Chester Council, and in relation to highways in Flintshire, Flintshire County Council

“specified work” means the works under the Order to create new, permanent junctions to the public highway and the installation of the pipeline in or under the highway where that requires breaking open of the surface of the highway.

### Highway condition and highway assets surveys

**238.**—(1) The undertaker will notify the of relevant local highway authority -

- (a) of the anticipated date of commencement of any Works to be undertaken under this Order; and
- (b) of the anticipated construction programme and date of completion of the authorised development;

not less than 3 months prior to that anticipated date of commencement of any Works to be undertaken under this Order.

(2) The undertaker and relevant local highway authority may agree that the relevant local highway authority will procure the highway condition surveys required under this Part of this Schedule at the cost of the undertaker.

(3) The undertaker will agree a proposed scope with the relevant local highway authority setting out the number (having regard to the construction programme), content and format of the highway condition surveys no later than 4 weeks after notification under sub- paragraph (1). If the undertaker fails to provide a highway condition survey or does not provide the relevant local highway authority with sufficient time to undertake a highway condition survey prior to any Works being undertaken pursuant to the Order then in default the last highway condition survey undertaken by the relevant local highway authority will amount to the baseline condition of the relevant highway and/or highway asset.

(4) A final highway condition survey must be procured by the undertaker within 28 days of the relevant local highway authority being notified by the undertaker that the construction of the authorised development is complete.

(5) Copies of any highway condition survey carried out in accordance with this paragraph must be provided to the relevant local highway authority by the undertaker within 10 working days of the completion of the relevant survey.

### **HGV route remediation**

**239.**—(1) The undertaker must maintain and provide to the relevant local highway authority at 3 month intervals from the date of any Works being undertaken under this Order until the authorised development is complete, records of the number of HGVs using the highway identified in paragraph 238(2) and/ or any amendments thereto to access the authorised development and details of which route such HGVs used.

(2) The relevant local highway authority will, having regard to the highway condition surveys, identify any need for remediation of the highway on the highway identified in paragraph 238(3) and/or any amendments made thereto.

(3) Where a need for remediation works or measures is identified under sub-paragraph (1), the relevant local highway authority must prepare a schedule of the works or measures required and of the cost of the delivery of those works or measures identified. For the avoidance of doubt, the reasonable cost of reviewing the highway condition surveys and preparing the schedule of works will be met by the undertaker.

(4) Upon receipt of the schedule of works identified in paragraph (2) and/or any amendments made thereto, the undertaker will apply for a licence from the relevant local highway authority to undertake the remediation works to the highway and must undertake these works within 3 months of that licence being granted. The cost of the licence and relevant approvals will be paid by the undertaker to the relevant local highway authority.

### **Specified work**

**240.**—(1) The undertaker will allow and facilitate an appropriately qualified officer of the relevant local highway authority to participate in the design process for any Work authorised by this Order which involves a specified work and/or any other Work to the local highway network required pursuant to this Order, and will have reasonable regard to any views of that officer in finalising the detailed design of that Work, provided always that any such view shared by the officer will not be an instruction, requirement or authorisation under this Order.

(2) Any officer of the relevant local highway authority duly appointed for the purpose may at all reasonable times, on giving to the undertaker such notice as may in the circumstances be reasonable, enter upon and inspect any part of the authorised development which—

- (a) is in, on, over or under any highway; or
- (b) which may affect any highway;

during the carrying out of the Work, and the undertaker will give to such officer all reasonable facilities for such inspection (subject to any reasonable adjustments necessary for the safety of such officer) and, if the officer is of the opinion that the construction of the Work poses danger to any highway or to any property of the relevant local highway authority or danger to persons or vehicles or other property in relation to which the relevant local highway authority might be liable on, in,

over or under any highway, the undertaker will adopt such measures and precautions as may be reasonably practicable for the purpose of preventing any damage or injury to the highway or persons or vehicles or other property aforesaid.

(3) Any officer of the relevant local highway authority exercising the right to inspect works under sub-paragraph (1) must comply with all reasonable health and safety requirements and instructions of the undertaker in doing so.

(4) The undertaker must, if reasonably required by the relevant local highway authority, provide and maintain during such time as the undertaker may occupy any part of a highway for the purpose of the construction of any part of the authorised development, temporary ramps for vehicular or pedestrian traffic and any other traffic measures required to protect the safety of road users in accordance with chapter 8 of the Traffic Signs Manual and the Safety at Street Works and Road Works A Code of Practice as may be necessary.

**241.**(1) Where, under this Order, any street works require to be undertaken to the reasonable satisfaction of the local highway authority, this paragraph will apply.

(2) The relevant local highway authority will, as soon as reasonably practicable following the receipt of notice from the undertaker that it considers any street works to which this paragraph applies to be complete, carry out an inspection of such street works.

(3) The relevant local highway authority will confirm when any street works have been completed to their reasonable satisfaction in writing and will set out in such confirmation the date on which the works were last inspected to establish such reasonable satisfaction. For the period of 24 months from the date of last inspection as stated in the confirmation of reasonable satisfaction, the undertaker will be liable to pay to the relevant local highway authority the reasonable costs of repairing or rectifying any defect in the highway which, in the opinion of the relevant local highway authority (acting reasonably) was caused by or is attributable to the carrying out of street works by the undertaker.

(4) The reasonable costs set out in paragraph (3) may include the costs of the time of the relevant local highway authority's officers and employees incurred in the remediation or rectification of a defect as well as the cost of the remediation or repair, whether carried out by the local highway authority or on their instruction. The costs payable under paragraph (3) must be paid by the undertaker in full within 30 days of receipt of an invoice for such costs provided that such invoice includes a breakdown of the charges incurred and is accompanied by copies of any invoices received by the relevant local highway authority for works undertaken to remedy or repair the defect.

(5) Any difference arising between the undertaker and the relevant local highway authority under this Part of this Schedule (other than in difference as to the meaning or construction of this Part of this Schedule) will be resolved by arbitration under article 48 (arbitration).

## PART 19

### For the protection of drainage authorities

**242.** The provisions of this Part of this Schedule apply for the protection of the drainage authority unless otherwise agreed between the undertaker and the drainage authority.

**243.** In this Part of this Schedule—

“construction” includes execution, placing, altering, laying, replacing, relaying, connecting, building, installing, removal and excavation, and “construct” and “constructed” are to be construed accordingly;

“the drainage authority means—

- (a) the drainage board concerned within the meaning of section 23(a) (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991; or

- (b) in the case of any area for which there is no such drainage board, the lead local flood authority within the meaning of section 6 (other definitions) of the Flood and Water Management Act 2010(b);

“drainage work” means any ordinary watercourse and includes any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence in connection with an ordinary watercourse which is the responsibility of the drainage authority;

“ordinary watercourse” has the same meaning as given in section 72 (interpretation) of the Land Drainage Act 1991(a);

“plans” includes sections, drawings, specifications and method statements; and

“specified work” means works carried out in relation to or which may alter or obstruct any ordinary watercourse including by—

- (c) erecting any mill dam, weir or other similar obstruction to the flow of the watercourse, or raising or otherwise altering any such obstruction;
- (d) construction or installation of a bridge or other crossing structure;
- (e) installing a culvert in the watercourse; or
- (f) altering a watercourse or a culvert or other form of drainage infrastructure in a manner that would be likely to affect the flow of the watercourse.

**244.**—(1) Before beginning to construct any specified work, the undertaker must submit to the drainage authority plans of the work, and such further particulars as the drainage authority may within 14 days of the first submission of the plans reasonably require.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority, or determined under paragraph 250

(3) The drainage authority must approve or refuse approval of the plans for a specified work within 56 days of receipt of the later of—

- (a) the plans under sub-paragraph (1); or
- (b) such further particulars as the drainage authority may reasonably require under sub-paragraph (1).

(4) Any approval of the drainage authority required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is to be deemed to have been given if it is neither given nor refused within the period specified in sub-paragraph (3); and
- (c) may be given subject to such reasonable requirements or conditions as the drainage authority may make for the protection of any ordinary watercourse or for the prevention of flooding.

**245.** The requirements or conditions which the drainage authority may make under paragraph 244 include conditions requiring the undertaker at its own expense to construct such protective works (including any new works as well as alterations to existing works) as are reasonably necessary—

- (a) to safeguard any ordinary watercourse against damage, or
- (b) to secure that the efficiency of any ordinary watercourse for flood defence or land drainage purposes is not impaired and that the risk of flooding is not otherwise increased, by reason of the specified work in relation to the ordinary watercourse.

**246.**—(1) Any specified work in relation to an ordinary watercourse, and all protective works required by the drainage authority under paragraph 244, must be constructed to the reasonable satisfaction of the drainage authority and an officer of the drainage authority is entitled, on giving such notice as may be reasonable in the circumstances, to inspect and watch the construction of such works.

(2) The undertaker must give to the drainage authority not less than 14 days’ notice of its intention to commence construction of any specified work and the undertaker must give to the drainage

authority notice of completion of a specified work not later than 7 days after the date on which it is brought into use.

(3) If any part of a specified work in, over or under any ordinary watercourse is constructed otherwise than in accordance with the requirements of this Part of this Schedule or as agreed between the undertaker and the drainage authority, the drainage authority may by notice require the undertaker at its own expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld) at the undertaker's expense to remove, alter or pull down the work and, where removal is agreed, to restore the site to its former condition to such extent and within such limits as the drainage authority reasonably requires.

(4) Subject to sub-paragraph (5), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (3) is served upon the undertaker, it has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress toward their implementation, the drainage authority may execute the works specified in the notice, subject to the undertaker having the right to supervise the planning and execution of such works to the extent they may affect the pipeline to the extent that those works are compliant with and do not compromise the undertaker's ability to comply with the Pipeline Safety Regulations 1996, and any expenditure reasonably incurred by it in so doing is to be recoverable from the undertaker. Notwithstanding the foregoing, the drainage authority may not under any circumstances undertake any works to the pipeline itself which could or would conflict with the duties and obligations of the undertaker under the Pipeline Safety Regulations 1996, any direction issued by the Health and Safety Executive under those Regulations or any other health and safety legislation relating to the operation and maintenance of the pipeline.

(5) In the event of any dispute as to whether sub-paragraph (3) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority must not, except in an emergency, exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined.

**247.**—(1) From the commencement of the construction of any specified work until the date falling 12 months from the date of completion of the specified work (“the maintenance period”), the undertaker must at its expense, maintain in at least as good repair and condition immediately prior to commencement of the construction of the specified work and keep free from obstruction any part of a drainage work which is situated within land held or occupied by the undertaker in respect of the specified work, whether the drainage work is constructed under this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain during the maintenance period is not maintained to the reasonable satisfaction of the drainage authority, it may by notice require the undertaker to maintain the drainage work at the undertaker's expense, or any part of it, to such extent as the drainage authority reasonably requires.

(3) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is necessary for such compliance, subject to the undertaker having the right to supervise the planning and execution of such works to the extent they may affect the pipeline to the extent that those works are compliant with and do not compromise the undertaker's ability to comply with the Pipeline Safety Regulations 1996, and may recover any expenditure reasonably incurred by it in doing so from the undertaker. Notwithstanding the foregoing, the drainage authority may not under any circumstances undertake any works to the pipeline itself which could or would conflict with the duties and obligations of the undertaker under the Pipeline Safety Regulations 1996, any direction issued by the Health and Safety Executive under those Regulations or any other health and safety legislation relating to the operation and maintenance of the pipeline.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the drainage authority must not, except in a case of emergency, exercise the powers of sub-paragraph (3) until the dispute has been finally determined.

(5) This paragraph does not apply to—

- (a) drainage works which are vested in the drainage authority, or which the drainage authority or another person is liable to maintain and is not prevented by this Order from so doing; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule provided that any obstruction is removed as soon as reasonably practicable.

**248.** Subject to paragraph 247(5)(b), if by reason of the construction of any specified work or of the failure of any such work the efficiency of any ordinary watercourse for flood defence or land drainage purposes is impaired, or that watercourse is otherwise damaged, so as to require remedial action, such impairment or damage must be made good by the undertaker at its own expense to the reasonable satisfaction of the drainage authority and if the undertaker fails to do so, the drainage authority may make good the same and recover the expense reasonably incurred by it in so doing from the undertaker.

**249.**—(1) The undertaker must make reasonable compensation to the drainage authority for costs, charges and expenses which it may reasonably incur or which it may sustain—

- (a) in the examination or approval of plans under this Part of this Schedule; and
- (b) in the inspection and supervision of the construction of a specified work in respect of an ordinary watercourse or any protective works required by the drainage authority under this Part of this Schedule.

**250.** Any dispute arising between the undertaker and the drainage authority under this Part of this Schedule is to be determined by arbitration in accordance with article 48 (arbitration) of the Order.

## PART 20

### For the protection of Exolum Pipeline System Ltd

#### **Application**

**251.** For the protection of Exolum the following provisions, unless otherwise agreed in writing at any time between the undertaker and Exolum, have effect.

#### **Interpretation**

**252.** In this Part of this Schedule, the following terms have the following meanings—

“Additional Rights” means rights for the construction and for access to and for the use, protection, inspection, maintenance, repair and renewal of retained Apparatus including any restrictions on the landowner and occupiers for the protection of the retained Apparatus and to allow Exolum to perform its functions.

“Alternative Apparatus” means alternative apparatus adequate to enable Exolum to fulfil its functions as a pipeline operator in a manner not less efficient than previously.

“Alternative Rights” means rights for the construction and for access to and for the use, protection, inspection, maintenance, repair and renewal of Alternative Apparatus including any restrictions on the landowner and occupiers for the protection of the Alternative Apparatus and to allow Exolum to perform its functions.

“Apparatus” means the pipeline and storage system and any ancillary apparatus owned and/or operated by Exolum and includes:

- (a) any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;
- (b) any ancillary works, all protective wrappings, valves, sleeves and slabs, cathodic protection units, together with ancillary cables and markers;



(c) such legal interest, and benefit of property rights and covenants as are vested in in respect of these items;

and, where the context allows, includes Alternative Apparatus.

“Application” means the application to the Secretary of State for the Order made by the undertaker under the Planning Act 2008 on 3 October 2022.

“Authorised Development” has the same meaning as that given in article 2(1) (interpretation) of the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Schedule.

“Commence” has the same meaning as that given in article 2(1) of the Order (and commencing must be construed accordingly).

“Deed of Consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus or to provide for access to Apparatus in a manner consistent with the terms of this Part of this Schedule.

“Exolum” means Exolum Pipeline System Ltd (company number 09497223) and for the purpose of enforcing the benefit of any provisions in this Schedule, any group company of Exolum Pipeline System Ltd and in all cases any successor in title.

“Expert” is a person appointed in accordance with paragraphs 307 to 315 to resolve a dispute under this Schedule.

“Functions” includes powers, duties and commercial undertaking.

“in” in a context referring to Apparatus in land includes a reference to Apparatus under, over or upon land.

“Order” means the order granting development consent, made by the Secretary of State and brought into force following the Application under the Planning Act 2008.

“parties” means the undertaker and Exolum and "party" is to be construed accordingly.

“Plan” includes all designs, drawings, sections, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary to allow Exolum to assess the relevant works to be executed properly and sufficiently and in particular must describe:

- (d) the exact position of the works;
- (e) the level at which the works are proposed to be constructed or renewed;
- (f) the manner of the works' construction or renewal including details of excavation, positioning of plant etc.;
- (g) the position of the affected Apparatus and/or Premises and any other apparatus belonging to another undertaker;
- (h) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (i) any intended maintenance regime;
- (j) details of the proposed method of working and timing of execution of works; and
- (k) details of vehicle access routes for construction and operational traffic.

“Premises” means land that Exolum owns, occupies or otherwise has rights to use including but not limited to storage facilities, administrative buildings and jetties.

“Protective Works” means works for the inspection and protection of Apparatus.

“Restricted Works” means any works that are near to, or will or may affect any Apparatus or Premises including:

- (l) all works within 15 metres measured in any direction of any Apparatus including embankment works and those that involve a physical connection or attachment to any Apparatus,

- (m) the crossing of Apparatus by other utilities,
  - (n) the use of explosives within 400 metres of any Apparatus or Premises,
  - (o) piling, undertaking of a 3D seismic survey or the sinking boreholes within 30 metres of any Apparatus or Premises,
  - (p) all works that impose a load directly upon the Apparatus, wherever situated
- whether carried out by the undertaker or any third party in connection with the Authorised Development.

“Working Day” means any day other than a Saturday, Sunday or English bank or public holiday.

### **Acquisition of Apparatus**

**253.**—(1) Regardless of any other provision in the Order or anything shown on the land plans or if the Order covers any Premises or interest in any land in which any Apparatus is placed or over which access to any Apparatus is enjoyed:

- (a) The undertaker must not, otherwise than by agreement with Exolum, acquire any Apparatus or Exolum’s rights in respect of Apparatus;
- (b) Where the undertaker acquires the freehold of any land in which Exolum holds an interest, the undertaker must afford to or secure for Exolum such rights in land in substitution for any right which would be extinguished by that acquisition (the replacement rights). These replacement rights must be granted upon substantially the same terms and conditions as the right to be extinguished, unless otherwise agreed between the undertaker and Exolum, and must be granted or put in place contemporaneously with the extinguishment of the right which they replace;
- (c) the undertaker must not, otherwise than in accordance with this Schedule:
  - (i) obstruct or render less convenient the access to any Apparatus or Premises;
  - (ii) interfere with or affect Exolum's ability to carry out its functions as an oil pipeline operator;
  - (iii) require that Apparatus is relocated or diverted; or
  - (iv) remove or required to be removed any Apparatus;
- (d) any right of Exolum to maintain, repair, renew, adjust, alter or inspect Apparatus may not be extinguished until any necessary Alternative Apparatus has been constructed, it is in operation and the Alternative Rights have been granted, all to the reasonable satisfaction of Exolum; and
- (e) any right of Exolum to access the Exolum Apparatus and/or Premises must not be extinguished until necessary alternative access has been provided to Exolum's reasonable satisfaction.

**254.** Prior to the carrying out of any Restricted Works or any works authorised by this Order that will affect the existing rights of Exolum, the parties must use all reasonable endeavours to negotiate and enter into such Deeds of Consent (crossing consent) and (if necessary) variations to the existing rights upon such terms and conditions as may be agreed between Exolum and the undertaker acting reasonably and which must be no less favourable on the whole to Exolum than this Schedule, and it will be the responsibility of the undertaker to procure and / or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such works.

**255.** Where the undertaker acquires land which is subject to any existing rights held by Exolum and the provisions of paragraph 265 do not apply, the undertaker must:

- (a) Retain any notice of the existing rights held by Exolum on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) provide up to date official entry copies to Exolum within 20 working days of receipt of such up to date official entry copies.

**256.** Where the undertaker takes temporary possession of any land or carries out survey works on land in respect of which Exolum has an easement, right, asset, interest, Apparatus or Premises:

- (a) where reasonably necessary, and provided that all health and safety requirements are complied with, including any requirements applicable to the undertaker under the Construction, Design and Management Regulations 2015, Exolum may exercise its rights to access such land:
  - (i) in an emergency, without notice but in all such instances Exolum will notify the undertaker as soon as reasonably practicable and until service of such notice, entry will be at Exolum's own risk; and
  - (ii) in non-emergency circumstances, having first given prior written notice to the undertaker in order to allow the parties to agree the timing of their respective works during the period of temporary possession; and
- (b) the undertaker may not remove or in any way alter Exolum's rights in such land, unless in accordance with the provisions of this Order.

### **Removal of Apparatus and Rights for Alternative Apparatus**

**257.** If, having used all reasonable endeavours to implement the Authorised Development without the removal of any Apparatus:

- (a) the undertaker reasonably requires the removal of any Apparatus; or
- (b) Exolum reasonably requires the removal of any Apparatus;

then the relevant party must give written notice of that requirement to the other.

**258.** The parties must use all reasonable endeavours to produce a plan of the work proposed and a plan of the proposed position of the Alternative Apparatus to be provided or constructed.

**259.** The undertaker must afford to Exolum the necessary facilities and rights for the construction of Alternative Apparatus and subsequently the grant of Alternative Rights in accordance with paragraphs 265 to 269.

**260.** Any Alternative Apparatus is to be constructed in land owned by the undertaker or in land in respect of which Alternative Rights have been or are guaranteed to be granted to Exolum. The Alternative Apparatus must be constructed in such manner and in such position or situation as may be agreed between Exolum and the undertaker or in default of agreement settled by expert determination in accordance with paragraphs 304 to 315.

**261.** After the details for the works for Alternative Apparatus to be provided or constructed have been agreed or settled by expert determination in accordance with paragraphs 304 to 315, and after the grant to Exolum of any such facilities and rights as are referred to in paragraph 257, Exolum must proceed as soon as reasonably practicable using all reasonable endeavours to construct and bring into operation the Alternative Apparatus and subsequently to remove (or if agreed between the parties to allow the undertaker to remove) any redundant Apparatus required by the undertaker to be removed under the provisions of this Schedule.

**262.** The following paragraphs 263 and 264 only apply if:

- (a) Exolum fails to comply with its obligations under paragraph 261 to remove any redundant Apparatus; and
- (b) the undertaker has served notice on Exolum specifying the default; and
- (c) Exolum has failed to remedy the default within 28 days.

**263.** In the circumstances set out in paragraph 262, if the undertaker then gives notice in writing to Exolum that it will remove the redundant Apparatus, that work, instead of being executed by Exolum, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Exolum.

**264.** Nothing in paragraph 263 authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any Apparatus, or execute any filling around the Apparatus (where the Apparatus is laid in a trench) within 3000 millimetres of the Apparatus unless that Apparatus is redundant and disconnected from Exolum's remaining system.

### **Facilities and Rights for Alternative Apparatus**

**265.** Where, in accordance with the provisions of this Schedule, the undertaker affords to Exolum facilities and rights for the construction of Alternative Apparatus and the grant of Alternative Rights, in substitution for Apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Exolum in accordance with this Schedule or in default of agreement settled by expert determination in accordance with paragraphs 304 to 315.

**266.** Alternative Rights must be granted before any Alternative Apparatus is operating as part of the pipeline and storage system which forms the Apparatus.

**267.** The parties agree that the Alternative Rights be granted by way of a 999 year lease, substantially in the form of Exolum's precedent from time to time as amended by written agreement between the parties acting reasonably.

**268.** Nothing in this Schedule or contained in the Alternative Rights shall require Exolum to divert or remove any Alternative Apparatus.

**269.** If the facilities and rights to be afforded by the undertaker in respect of any Alternative Apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the Expert less favourable on the whole to Exolum than the facilities and rights enjoyed by it in respect of the Apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the Expert will make such provision for the payment of compensation by the undertaker to Exolum as appears to the Expert to be reasonable having regard to all the circumstances of the particular case.

### **Retained Apparatus and Alternative Apparatus: protection**

**270.** Before commencing the execution of any Restricted Works, the undertaker must submit to Exolum a Plan of the works to be executed and any other information that Exolum may reasonably require to allow Exolum to assess the works.

**271.** No Restricted Works are to be commenced until the Plan to be submitted to Exolum under paragraph 270 has been approved by Exolum in writing and are to be carried out only in accordance with the details submitted under paragraph 270 and in accordance with such reasonable requirements as may be notified to the undertaker in writing in accordance with paragraph 272 by Exolum.

**272.** Any approval by Exolum of the Plan of works submitted under paragraph 270 must not be unreasonably withheld or delayed, and Exolum must communicate its approval or refusal of the plans within 56 days of the date of submission of the plan under paragraph 270 and any approval of the Plan of works may be given subject to such reasonable requirements as Exolum may require to be made for:

- (a) the continuing safety and operational viability of any Apparatus and/or Premises; and
- (b) the requirement for Exolum to have reasonable access with or without vehicles to inspect, repair, replace, maintain and ensure the continuing safety and operation or viability of any Apparatus and/or Premises

providing such reasonable requirements are notified to the undertaker in writing.

**273.** Exolum will be entitled to watch and inspect the execution of Restricted Works at any time.

**274.** Where reasonably required by either party, in view of the complexity of any proposed works, timescales, phasing or costs, the parties must with due diligence and good faith negotiate a works agreement for the carrying out of Protective Works or the installation of Alternative Apparatus.

**275.** If in consequence of the works notified to Exolum by the undertaker under paragraph 271, the circumstances in paragraph 7 apply, then the parties will follow the procedure in paragraph 257 onwards.

**276.** Nothing in paragraphs 270 to 275 precludes the undertaker from submitting prior to the commencement of works to protect retained Apparatus or to construct Alternative Apparatus (unless otherwise agreed in writing between the undertaker and Exolum) a new Plan, instead of the Plan previously submitted, in which case the parties will re-run the procedure from paragraph 275 onwards.

**277.** Where Exolum reasonably requires Protective Works, the parties must use all reasonable endeavours to produce a plan of the work proposed and a plan of the proposed position of any physical features to be provided or constructed.

**278.** The undertaker must afford to Exolum the necessary facilities and rights for the construction of Protective Works and subsequently the grant of Additional Rights in accordance with paragraphs 265 to 269.

**279.** Any Protective Works are to be constructed in land owned by the undertaker or in land in respect of which Additional Rights have been or are guaranteed to be granted to Exolum. The Protective Works must be constructed in such manner and in such position or situation as may be agreed between Exolum and the undertaker or in default of agreement settled by expert determination in accordance with paragraphs 304 to 315.

**280.** After the details for the Protective Works to be provided or constructed have been agreed or settled in accordance with paragraphs 305 to 315, and after the grant to Exolum of any such facilities and rights as are referred to in paragraph 259, Exolum must proceed as soon as reasonably practicable using reasonable endeavours to construct and bring into operation the Protective Works.

**281.** Where the undertaker needs to carry out emergency works:

- (a) it must give to Exolum notice before such works commence, or as soon as is reasonably practicable after the works have commenced where it is not reasonably practicable to provide notice prior to commencement;
- (b) the parties will work together to co-ordinate their respective works and agree a plan of those works before such works commence, or as soon as is reasonably practicable after the works have commenced where it is not reasonably practicable to provide notice prior to commencement; and
- (c) it must comply with the conditions imposed under paragraph 272 insofar as is reasonably practicable in the circumstances.

**282.** In this Part of this Schedule, “emergency works” means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

### **Cathodic protection testing**

**283.** Where in the reasonable opinion of Exolum or the undertaker:

- (a) the Authorised Development might interfere with the cathodic protection forming part of Apparatus; or
- (b) any Apparatus might interfere with the proposed or existing cathodic protection forming part of the Authorised Development;

Exolum and the undertaker must co-operate in undertaking the tests which they consider reasonably necessary for ascertaining the nature and extent of such interference and measures for providing or preserving cathodic protection.

**284.** The Parties must carry out the works and enter into such agreements as are reasonably necessary to implement the measures for providing or preserving cathodic protection.

### **Expenses**

**285.**—(1) Subject to the following provisions of these paragraphs 285 to 288, the undertaker must pay to Exolum the reasonable and properly incurred costs and expenses (including reasonable staffing costs if work is carried out in-house) incurred by Exolum in, or in connection with:

- (a) undertaking its obligations under this Schedule including:
  - (i) the installation, inspection, removal, alteration, testing or protection of any Apparatus, Alternative Apparatus and/or Protective Works;
  - (ii) the execution of any other works under this Schedule; and
  - (iii) the review and assessment of Plans;
- (b) the watching of and inspecting the execution of the Authorised Development, any Restricted Works and any works undertaken by third parties as a result of Authorised Development (including the assessment of Plans); and
- (c) imposing reasonable requirements for the protection or alteration of Apparatus affected by the Authorised Development or works as a consequence of the Authorised Development in accordance with paragraph 272;

together with any administrative costs properly and reasonably incurred by Exolum.

**286.** Provided that Exolum takes all reasonable steps to minimise the costs incurred in the following circumstances, there will be no deduction from any sum payable under paragraph 285 as a result of:

- (a) the placing of apparatus of a better type, greater capacity or of greater dimensions, or at a greater depth than the existing Apparatus; or
- (b) the placing of apparatus in substitution of the existing Apparatus that may defer the time for renewal of the existing Apparatus in the ordinary course;

**287.** The scrap value (if any) of any Apparatus removed under the provisions of this Schedule is to be deducted from any sum payable under paragraph 285.

**288.** Upon the submission of proper and reasonable estimates of costs and expenses to be incurred by Exolum, the undertaker must pay Exolum sufficiently in advance but to enable Exolum to undertake its obligations under this Schedule provided that in the event that the costs reasonably incurred by Exolum are less than the amount paid by the undertaker pursuant to this paragraph 288 then Exolum must promptly repay any overpayment to the undertaker within 30 days of the payment of those costs.

### **Damage to property and other losses**

**289.** Subject to paragraphs 290 to 293, the undertaker will:

- (a) indemnify Exolum for all reasonable loss, damage, liability, costs and expenses reasonably suffered or incurred by Exolum directly arising out of:
  - (i) the carrying out of works under this Schedule;
  - (ii) the carrying out of the Authorised Development;
  - (iii) the use or occupation of land over or in the vicinity of any Apparatus or in the vicinity of any Premises in connection with the carrying out of the Authorised Development;
  - (iv) any injury or damage whatsoever to any property, real or personal, including the property of Exolum; and

- (v) any matters arising out of or in connection with this Order;
- (b) indemnify Exolum against any claim made against, or loss suffered by, Exolum as a result of any act or omission committed by the undertaker's officers, employees, contractors or agents whilst on or in the vicinity of any Apparatus or Premises;
- (c) pay to Exolum on demand the cost reasonably incurred by Exolum in making good any damage to the Apparatus (other than Apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) arising out of the carrying out of works under this Schedule and arising out of the carrying out of the Authorised Development; and
- (d) pay to Exolum the cost reasonably incurred by Exolum in stopping, suspending and restoring the supply through its Apparatus in consequence of the carrying out of works under this Schedule or the carrying out of the Authorised Development;

and make reasonable compensation to Exolum for any other expenses, losses, damages, penalty or costs incurred by Exolum by reason of any such damage or interruption including all claims by third parties.

**290.** The fact that any act or thing may have been done by Exolum on behalf of the undertaker or in accordance with a Plan approved by Exolum or in accordance with any requirement of Exolum or under its supervision will not, subject to paragraph 291, excuse the undertaker from liability under the provisions of paragraph 289.

**291.** The undertaker and Exolum must at all times take reasonable steps to prevent and mitigate any loss, damage, liability, claim, cost or expense (whether indemnified or not) which either suffers in connection with this Schedule.

**292.** The undertaker warrants that:

- (a) the information it or any of its employees, agents or contractors provide to Exolum about the Plans or the Authorised Development and on which Exolum relies in the design of and carrying out of any works is accurate; and
- (b) the undertaker or any of its employees, agents or contractors have exercised all the reasonable skill, care and diligence to be expected of a qualified and experienced member of their respective profession.

**293.** Exolum must give to the undertaker reasonable notice of any claim or demand to which paragraph 289 applies.

## **Insurance**

**294.** The undertaker must not Commence the Authorised Development or any intrusive environmental (including archaeological) surveys and investigation or intrusive site or soil surveys on any land in respect of which Exolum has an easement, right, operations, assets or other interests or carry out any Restricted Works unless and until Exolum has confirmed to the undertaker in writing that it is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker (or its contractor) has procured acceptable professional indemnity insurance, where relevant, and public liability insurance with minimum cover of £25 million per event, with respect to the carrying out of the works.

**295.** The undertaker must maintain such insurance for the construction period of the Restricted Works, being from the proposed date of Commencement of the Authorised Development to the completion of any Restricted Works or Protective Works.

## **Co-operation and reasonableness**

**296.** Where Apparatus is required to be protected, altered, diverted or removed under this Schedule, the undertaker must use all reasonable endeavours to co-ordinate the execution of any works under this Schedule:

- (a) in the interests of safety;

- (b) 47.2 in the interest of the efficient and economic execution of both Exolum's works and the Authorised Development; and
- (c) 47.3 taking into account the need to ensure the safe and efficient operation of Apparatus and carrying out of Exolum's functions.

**297.** Exolum must use all reasonable endeavours to co-operate with the undertaker for the purposes outlined in paragraph 296.

**298.** The undertaker and Exolum must act reasonably in respect of any given term of this Schedule and, in particular, (without prejudice to generality) where any approval, consent or expression of satisfaction is required by this Schedule it must not be unreasonably withheld or delayed.

### **Emergency circumstances**

**299.** The undertaker acknowledges that Exolum provides services to His Majesty's Government, using the Apparatus, which may affect any works to be carried under this Schedule and the Authorised Development.

**300.** In the following circumstances, Exolum may on written notice to the undertaker immediately suspend all works that necessitate the stopping or suspending of the supply of product through any Apparatus under this Schedule and Exolum will not be in breach of its obligations under this Schedule:

- (a) circumstances in which, in the determination of the Government, there subsists a material threat to national security, or a threat or state of hostility or war or other crisis or national emergency (whether or not involving hostility or war); or
- (b) circumstances in which a request has been received, and a decision to act upon such request has been taken, by the Government for assistance in relation to the occurrence or anticipated occurrence of a major accident, crisis or natural disaster; or
- (c) circumstances in which a request has been received from or on behalf of NATO, the EU, the UN, the International Energy Agency (or any successor agency thereof) or the government of any other state for support or assistance pursuant to the United Kingdom's international obligations and a decision to act upon such request has been taken by the Government; or
- (d) any circumstances identified as such by the COBRA committee of the Government (or any successor committee thereof); or
- (e) any situation in connection with which the Government requires fuel capacity, including where the United Kingdom is engaged in any planned or unplanned military operations within the United Kingdom or overseas.

**301.** The parties agree to act in good faith and in all reasonableness to agree any revisions to any schedule, programme or costs estimate (which will include costs of demobilising and remobilising any workforce, and any costs to protect the Apparatus "mid-works") to account for the suspension.

**302.** Exolum is not liable for any costs, expenses, losses or liabilities the undertaker incurs as a result of the suspension of any activities under paragraphs 299 to 302 or delays caused by it.

### **Escalation of differences**

**303.** The undertaker and Exolum must use their reasonable endeavours to secure the amicable resolution of any dispute or difference arising between them out of or in connection with this Schedule in accordance with the following provisions.

**304.** The undertaker and Exolum will each nominate a representative who will meet to try to resolve the matter. If the matter is not resolved at that level within ten working days of either the undertaker or Exolum requesting such a meeting (or such longer period as may be agreed between the undertaker and Exolum) the matter may at the request of either the undertaker or Exolum be referred for discussion at a meeting to be attended by a senior executive from each party.



**305.** If the meeting between senior executives fails to result in a settlement within 20 working days of the date of the request for such a meeting (or if it is not possible to convene a meeting within this period) then either the undertaker or Exolum may refer the matter to expert determination or arbitration in accordance with the provisions of paragraphs 303 to 314.

### **Dispute resolution**

**306.** If any dispute or difference arising out of or in connection with this Schedule is not resolved in accordance with paragraphs 303 to 305, either the undertaker or Exolum may refer the matter to:

- (a) in the case of any dispute or difference pursuant to paragraphs 260, 265, 269 or 283, expert determination under paragraphs 307 to 313; or
- (b) in the case of any dispute or difference not falling within paragraphs 306(a), arbitration under article 48 (arbitration) of the Order.

**307.** The parties will agree on the appointment of an independent Expert and must agree with the Expert the terms of their appointment.

**308.** If the parties are unable to agree on an Expert or the terms of their appointment within five working days of either party serving details of a suggested expert on the other, either party will then be entitled to request the Institution of Civil Engineers or its successor to appoint an Expert and to agree with the Expert the terms of their appointment.

**309.** The Expert is required to prepare a written decision including reasons and give notice (including a copy) of the decision to the parties within a maximum of three months of the matter being referred to them.

**310.** If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by paragraph 309 then either party may re-apply to the relevant professional body referred to above to discharge the Expert and to appoint a replacement Expert with the required expertise and this clause will apply to the new Expert as if they were the first Expert appointed.

**311.** The parties are entitled to make submissions to the Expert and will provide the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.

**312.** The Expert will act as an expert and not as an arbitrator. The Expert may award interest as part of their decision. The Expert's written decision on the matters referred to them will be final and binding on the parties in the absence of manifest error or fraud.

**313.** The Expert may direct that any legal costs and expenses incurred by a party in respect of the determination will be paid by another party to the determination on the general principle that costs should follow the event, except where it appears to the Expert that, in the circumstances, this is not appropriate in relation to the whole or part of such costs. The Expert's fees and any costs properly incurred by them in arriving at his determination (including any fees and costs of any advisers appointed by the Expert) will be borne by the parties equally or in such other proportions as the Expert directs.

**314.** The dispute resolution procedure set out in this Schedule will apply to matters dealt with in this Schedule notwithstanding any dispute resolution procedure provided for either in the Order or as part of any other consent in respect of the Authorised Development.

### **Miscellaneous**

**315.** Nothing in this Schedule affects the provisions of any enactment or prior agreement regulating the relations between the undertaker and Exolum in respect of any Apparatus laid or erected in land belonging to the undertaker on the date the Order is granted.

**316.** No failure or delay by a party to exercise any right or remedy provided under this Schedule or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict

the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.

## PART 21

### For the protection of the Environment Agency

**317.**—(1) The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

(2) In this part of this Schedule –

“Agency” means the Environment Agency;

“drainage work” means any main river and includes any land which provides or is expected to provide flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

“flood risk activity permit” means an environmental permit granted under regulation 13 of the Environmental Permitting (England and Wales) Regulations 2016 for the purposes of a flood risk activity;

“main river” has the same meaning given in section 113 of the Water Resources Act 1991;

“specified work” means any development authorised by this Order and carried out in relation to or which may affect any drainage work.

**318.**—(1) Subject to sub-paragraph (4) the undertaker must, for the duration of the construction of the specified work, as far as reasonably practicable maintain in good repair and condition and keep free from obstruction any part of any drainage work which is situated on land held or occupied by the undertaker for the purposes of or in connection with the specified work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) If within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may undertake the works reasonably necessary for such compliance, subject to the undertaker having the reasonable opportunity to supervise the planning and execution of such works to the extent reasonably necessary to ensure they are compliant with and do not compromise the undertaker’s ability to comply with the Pipeline Safety Regulations 1996 and any expenditure reasonably and properly incurred by the Agency in so doing is recoverable from the undertaker. Notwithstanding the foregoing, the Agency may not under any circumstances undertake any works to the pipeline itself which would or would be likely to conflict with the duties and obligations of the undertaker under the Pipeline Safety Regulations 1996, any direction issued by the Health and Safety Executive under those regulations or any other health and safety legislation relating the operation and maintenance of the pipeline.

(4) This paragraph does not apply to-

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; and
- (b) any obstruction of a drainage work expressly authorised in the approval of a flood risk activity permit and carried out in accordance with the provisions of that flood risk activity permit provided that any obstruction is removed as soon as reasonably practicable.

(5) Where the authorised development involves the crossing of any watercourse by open cut trench installation, the use of a dam as part of such installation works shall not constitute an obstruction for the purpose of these provisions.

## SCHEDULE 11

Article 39

### Removal of hedgerows

#### PART 1

#### Removal of hedgerows

<i>(1) Area</i>	<i>(2) Grid coordinates</i>		<i>(3) Identifier</i>	<i>(4) Grid coordinates</i>		<i>(5) Identifier</i>
In the Borough of Cheshire West and Chester	346950	376184	1a	347003	375913	1b
	346897	375898	2a	347019	375915	2b
	346875	375645	3a	347001	375629	3b
	346785	375868	4a	347022	375902	4b
	346294	375265	6a	346575	375409	6b
	346292	375019	8a	346448	375100	8b
	346203	374951	9a	346332	374872	9b
	345865	374566	11a	345928	374681	11b
	345719	374573	13a	345752	374637	13b
	345691	374534	14a	345700	374566	14b
	345499	374566	16a	345508	374559	16b
	345406	374424	17a	345527	374576	17b
	345402	374427	18a	345406	374424	18b
	345393	374649	19a	345473	374778	19b
	345233	374763	20a	345325	374692	20b
	345140	374609	21a	345241	374775	21b
	345029	374340	23a	345037	374375	23b
	345025	374399	24a	345121	374612	24b
	338243	370613	25a	338253	370606	25b
	345016	374362	26a	345021	374384	26b
	344672	373470	30a	344798	373398	30b
	344631	374707	31a	344681	374744	31b
	344606	373756	32a	344727	373613	32b
	344577	374124	34a	344612	374061	34b
344583	373750	35a	344649	373774	35b	
344526	374826	38a	344550	374829	38b	
344523	373977	39a	344618	374028	39b	
344510	373273	40a	344552	373268	40b	
344501	374115	41a	344557	374134	41b	
344466	373286	43a	344492	373300	43b	
344544	374793	44a	344505	374788	44b	
	343371	371565	45a	343383	371547	45b
	343147	372270	47a	343217	372199	47b
	342929	372091	51a	342957	372017	51b
	342797	372709	52a	343066	372802	52b

<i>(1) Area</i>	<i>(2) Grid coordinates</i>		<i>(3) Identifier</i>	<i>(4) Grid coordinates</i>		<i>(5) Identifier</i>
	342773	371940	53a	342957	372017	53b
	342645	371389	54a	342686	371384	54b
	342340	371321	57a	342551	371274	57b
	342277	371214	58a	342303	371319	58b
	342254	371171	59a	342291	371319	59b
	342072	371246	61a	342184	371178	61b
	341985	371184	62a	342057	371107	62b
	341904	371138	63a	341970	371047	63b
	341611	371039	65a	341700	371076	65b
	341467	371130	66a	341529	371189	66b
	341467	371130	67a	341515	371042	67b
	341386	371217	69a	341555	371545	69b
	341416	371081	71a	341473	371121	71b
	340962	371264	76a	340981	371281	76b
	340908	371357	79a	340954	371326	79b
	340207	371124	84a	340234	371227	84b
	339951	371169	85a	339989	371042	85b
	339167	370831	87a	339224	370832	87b
	338915	370692	89a	338980	370762	89b
	338866	370911	90a	338877	370893	90b
	338815	370876	91a	338866	370911	91b
	338566	371004	98a	338651	371061	98b
	338535	371059	99a	338623	371117	99b
	338535	371059	100a	338566	371004	100b
	338499	370956	101a	338512	370946	101b
	338457	370927	102a	338566	371004	102b
	338408	370977	103a	338499	371036	103b
	338313	370737	105a	338336	370696	105b
	338304	370502	107a	338345	370543	107b
	338287	370485	108a	338293	370500	108b
	338250	370603	109a	338253	370606	109b
	338236	370569	110a	338341	370669	110b
	338236	370569	111a	338304	370502	111b
	338227	370562	112a	338293	370500	112b
	338171	370148	114a	338255	370272	114b
	338078	370262	116a	338189	370125	116b
	338078	370068	117a	338162	370042	117b
	338028	370227	118a	338078	370262	118b
	338075	370052	119a	338069	370046	119b
	337741	369579	121a	337741	369578	121b
	337173	369465	127a	337399	369467	127b
	337154	369441	128a	337172	369464	128b
	337096	369519	129a	337108	369538	129b
	337011	369425	130a	337072	369498	130b
	336896	369517	131a	336929	369499	131b
	336894	369447	132a	336922	369425	132b
	336889	369434	133a	336929	369499	133b
	336867	369418	134a	336889	369434	134b

<i>(1) Area</i>	<i>(2) Grid coordinates</i>		<i>(3) Identifier</i>	<i>(4) Grid coordinates</i>		<i>(5) Identifier</i>
	336780	369506	135a	336889	369434	135b
	336702	369326	136a	336733	369339	136b
	336698	369446	137a	336778	369375	137b
	336691	369439	139a	336766	369370	139b
	336676	369301	140a	336697	369277	140b
	336584	369273	142a	336702	369326	142b
	336559	369147	143a	336637	369169	143b
	336559	369148	144a	336588	369082	144b
	336461	369054	145a	336562	369137	145b
	336383	368928	146a	336415	368981	146b
In the Counties of Cheshire West and Chester and Flintshire	336303	368960	147a	336401	368893	147b
In the County of Flintshire	336239	367713	148a	336360	367878	148b
	336142	368871	149a	336266	368825	149b
	336108	368859	150a	336234	368808	150b
	336008	368717	151a	336140	368845	151b
	335996	367600	152a	336373	367882	152b
	335969	367585	153a	336229	367705	153b
	335630	368512	154a	335687	368466	154b
	335619	368523	155a	335629	368513	155b
	335600	368570	156a	335677	368500	156b
	335569	367286	158a	335621	367253	158b
	335400	368466	159a	335507	368596	159b
	335389	368464	160a	335499	368602	160b
	335352	368028	161a	335423	367975	161b
	335345	368019	162a	335419	367962	162b
	335198	366277	163a	335205	366276	163b
	335166	367550	164a	335412	367959	164b
	335087	367588	165a	335156	367543	165b
	335042	367607	166a	335152	367537	166b
	334943	367786	167a	335039	367614	167b
	334921	367141	168a	335150	367525	168b
	334904	366740	169a	334997	366883	169b
	334830	366923	170a	334859	366966	170b
	334704	367059	172a	335344	366659	172b
	334542	366813	173a	334668	366738	173b
	334395	366600	174a	334541	366815	174b
	334275	366437	175a	334316	366404	175b
	334044	366404	176a	334146	366303	176b
	333818	366173	177a	333966	366411	177b
	333659	366309	178a	333729	366232	178b
	333482	366284	179a	333529	366345	179b
	333425	366475	180a	333431	366472	180b
	333424	366475	181a	333427	366481	181b
	333388	366375	182a	333441	366456	182b

<i>(1) Area</i>	<i>(2) Grid coordinates</i>		<i>(3) Identifier</i>	<i>(4) Grid coordinates</i>		<i>(5) Identifier</i>
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	333299	366475	184a	333356	366549	184b
	333272	366507	185a	333329	366581	185b
	333250	366666	186a	333253	366664	186b
	333199	366592	187a	333250	366666	187b
	333192	366603	188a	333249	366687	188b
	333172	366557	189a	333189	366552	189b
	333032	366784	190a	333090	366870	190b
	332962	366852	191a	333032	366934	191b
	332744	366971	192a	332785	367066	192b
	332926	366929	193a	332962	366852	193b
	332923	366932	194a	332981	366992	194b
	332910	366919	195a	332941	366889	195b
	332844	367101	197a	332944	366968	197b
	332741	366946	198a	332748	366966	198b
	332676	367377	199a	332790	367259	199b
	332716	367301	200a	332718	367299	200b
	332700	366983	201a	332759	366962	201b
	332669	367371	202a	332787	367255	202b
	332664	366908	203a	332700	366983	203b
	332664	367347	204a	332717	367297	204b
	332643	367203	205a	332717	367297	205b
	332587	367258	208a	332643	367203	208b
	332587	367258	209a	332664	367347	209b
	332550	366995	210a	332613	367078	210b
	332526	367028	211a	332590	367105	211b
	332359	367497	215a	332432	367575	215b
	332280	367529	216a	332341	367495	216b
	331727	367302	224a	331857	367429	224b
	331530	367209	228a	331541	367347	228b
	331228	367137	230a	331311	367098	230b
	331070	367005	231a	331205	366894	231b
	330957	366836	232a	331000	366727	232b
	330915	366760	235a	330942	366849	235b
	330908	366762	236a	330931	366866	236b
	330651	366885	237a	330714	366843	237b
	330528	366750	238a	330706	366827	238b
	330438	366842	241a	330491	366910	241b
	330414	366978	242a	330438	366842	242b
	330211	367080	243a	330235	367100	243b
	330114	366912	244a	330180	366966	244b
	330104	366922	245a	330138	366883	245b
	330104	366922	246a	330117	366983	246b
	330090	366996	248a	330133	366986	248b
	329986	366784	249a	330104	366922	249b
	329961	367023	250a	330015	367007	250b

<i>(1) Area</i>	<i>(2) Grid coordinates</i>		<i>(3) Identifier</i>	<i>(4) Grid coordinates</i>		<i>(5) Identifier</i>
	329947	367027	251a	329948	367023	251b
	329909	367035	253a	329943	367028	253b
	329901	367043	254a	329954	367166	254b
	329898	367037	255a	329898	367037	255b
	329882	366859	256a	329916	366837	256b
	329865	367251	257a	329954	367165	257b
	329860	366914	258a	329903	366910	258b
	329743	367134	261a	329898	367037	261b
	329612	367250	263a	329684	367215	263b
	329480	367398	264a	329569	367333	264b
	329593	367247	265a	329570	367332	265b
	329305	367310	268a	329378	367221	268b
	329221	367018	269a	329224	367042	269b
	329062	367150	270a	329221	367018	270b
	328807	366603	275a	328888	366632	275b
	328800	366502	276a	328875	366550	276b
	328798	366607	277a	328867	366640	277b
	328731	366404	278a	328753	366430	278b
	328726	366466	280a	328753	366430	280b
	328682	366490	281a	328711	366483	281b
	328653	366393	282a	328770	366410	282b
	328559	366439	283a	328681	366490	283b
	328513	366475	286a	328620	366501	286b
	328450	366614	287a	328480	366638	287b
	328415	366670	288a	328429	366680	288b
	328279	366680	291a	328280	366715	291b
	327958	366851	294a	328010	366935	294b
	327714	367029	297a	327781	367086	297b
	327393	367320	301a	327512	367331	301b
	327252	367349	303a	327298	367324	303b
	327091	367365	304a	327094	367433	304b
	326967	367405	305a	326973	367455	305b
	326966	367405	306a	327019	367382	306b
	326604	367661	310a	326692	367648	310b
	326302	367738	315a	326330	367636	315b
	326218	367619	316a	326239	367615	316b
	326164	367732	317a	326269	367745	317b
	326068	367737	318a	326127	367936	318b
	325952	367770	319a	326068	367737	319b
	325945	367768	320a	325948	367772	320b
	325873	367846	321a	325943	367774	321b
	325873	367846	322a	325948	368011	322b
	325709	367995	323a	325722	368095	323b
	325696	368121	324a	325745	368096	324b
	325659	368161	325a	325742	368162	325b
	325650	368091	326a	325722	368095	326b

<i>(1) Area</i>	<i>(2) Grid coordinates</i>		<i>(3) Identifier</i>	<i>(4) Grid coordinates</i>		<i>(5) Identifier</i>
	325646	368419	327a	325721	368438	327b
	325645	368137	328a	325748	368084	328b
	325644	368147	329a	325696	368121	329b
	325631	368243	330a	325730	368276	330b
	325617	368405	331a	325646	368419	331b
	325589	368654	335a	325601	368662	335b
	325307	369097	339a	325390	369118	339b
	325259	369284	343a	325436	369399	343b
	325253	369808	344a	325328	369868	344b
	325249	369750	345a	325317	369622	345b
	325251	369729	346a	325314	369614	346b
	325181	370133	351a	325202	370107	351b
	325115	370883	353a	325236	370821	353b
	325021	370722	355a	325149	370671	355b
	325054	370798	357a	325069	370825	357b
	321735	372374	360a	321853	372471	360b
	321667	372508	361a	321730	372369	361b
	321671	372509	362a	321733	372549	362b
	321713	372597	363a	321730	372550	363b
	317359	373302	365a	317408	373427	365b
	317408	373427	366a	317441	373485	366b
	317359	373295	367a	317441	373307	367b
	314858	374549	368a	314982	374524	368b
	314858	374549	369a	314832	374486	369b
	314787	374642	370a	314712	374555	370b
	344911	373387	371a	344910	373357	371b

## PART 2

### Removal of important hedgerows

<i>(1) Area</i>	<i>(3) Grid coordinates</i>		<i>(4) Identifier</i>	<i>(5) Grid coordinates</i>		<i>(4) Identifier</i>
	<i>Easting</i>	<i>Northing</i>		<i>Easting</i>	<i>Northing</i>	
In the Borough of Cheshire West and Chester	346624	375332	5a	346664	375246	5b
	346292	375019	7a	346294	375264	7b
	346049	374719	10a	346148	374646	10b
	345039	374387	12a	345144	374595	12b
	345627	374612	15a	345739	374541	15b
	345137	374603	22a	345398	374429	22b
	344751	374565	27a	344807	374608	27b
	344707	374590	28a	344795	374656	28b
	344694	373445	29a	344795	373389	29b
	344599	374805	33a	344624	374809	33b
	344539	373869	36a	344606	373763	36b
	344534	373865	37a	344628	373892	37b
	344502	373275	42a	344506	373277	42b
	343217	372213	46a	343434	372429	46b
	343076	372437	48a	343228	372556	48b



In the  
County of  
Flintshire

343063	372424	49a	343222	372203	49b
342945	371968	50a	343205	372217	50b
342551	371276	55a	342553	371198	55b
342371	371314	56a	342371	371220	56b
342191	371330	60a	342291	371319	60b
341633	371144	64a	341738	371041	64b
341398	371114	68a	341502	371217	68b
341369	371155	70a	341423	371258	70b
341357	371041	72a	341371	371028	72b
341344	371060	73a	341357	371041	73b
341137	371423	74a	341340	371196	74b
341127	371421	75a	341351	371185	75b
340954	371326	77a	340974	371368	77b
340954	371326	78a	340990	371269	78b
340778	371314	80a	340836	371229	80b
340643	371289	81a	340700	371201	81b
340364	371214	82a	340399	371152	82b
340231	371186	83a	340357	371251	83b
339914	371154	86a	339964	371033	86b
339077	370769	88a	339211	370710	88b
338811	370884	92a	338890	370951	92b
338646	371110	95a	338684	371119	95b
338646	371110	96a	338811	370884	96b
338623	371117	97a	338647	371068	97b
338404	370985	104a	338478	370910	104b
338312	370737	106a	338334	370755	106b
338199	369957	113a	338216	369986	113b
338081	370260	115a	338233	370393	115b
338033	369865	120a	338120	369812	120b
337739	369580	122a	337843	369618	122b
337586	369599	123a	337724	369622	123b
337412	369476	124a	337642	369511	124b
337389	369566	125a	337415	369465	125b
337383	369549	126a	337399	369466	126b
336696	369311	138a	336725	369327	138b
336639	369370	141a	336702	369326	141b
335599	368576	157a	335897	368938	157b
334798	367194	171a	334925	367117	171b
332904	366926	196a	332964	366986	196b
332637	367004	206a	332691	366972	206b
332600	366945	207a	332647	367039	207b
332512	367500	212a	332574	367438	212b
332510	367498	213a	332512	367500	213b
332413	367593	214a	332512	367500	214b
332273	367501	217a	332288	367601	217b
332259	367501	218a	332272	367584	218b
332104	367495	219a	332272	367584	219b
332104	367495	220a	332142	367420	220b
331969	367402	221a	332062	367499	221b
331877	367426	222a	331943	367496	222b

331862	367425	223a	331921	367377	223b
331661	367352	225a	331713	367302	225b
331652	367350	226a	331688	367310	226b
331545	367204	227a	331556	367347	227b
331469	367345	229a	331537	367288	229b
330944	366855	233a	330955	366844	233b
330492	366911	239a	330508	366932	239b
330444	366959	240a	330492	366911	240b
330102	366928	247a	330103	366925	247b
329922	366843	252a	329986	366785	252b
329761	367123	259a	329864	367248	259b
329761	367123	260a	329901	367043	260b
329612	367366	262a	329612	367256	262b
328932	366825	271a	328966	366838	271b
328872	366730	272a	328893	366779	272b
328870	366885	273a	328932	366825	273b
328829	366781	274a	328886	366782	274b
328716	366479	279a	328751	366522	279b
328557	366467	284a	328653	366493	284b
328527	366460	285a	328557	366467	285b
328353	366747	289a	328460	366562	289b
328280	366717	290a	328306	366790	290b
328108	366779	292a	328280	366717	292b
328069	366797	293a	328119	366884	293b
327663	367004	295a	327813	367131	295b
327714	367027	296a	327781	366960	296b
327698	367024	298a	327720	367006	298b
327695	367023	299a	327698	367024	299b
327544	367308	300a	327550	367172	300b
327351	367408	302a	327405	367174	302b
326832	367465	307a	326966	367405	307b
326702	367616	308a	326841	367604	308b
326680	367522	309a	326694	367649	309b
326594	367585	311a	326604	367661	311b
326484	367713	312a	326550	367712	312b
326471	367636	313a	326484	367713	313b
326407	367723	314a	326426	367724	314b
325609	368499	332a	325704	368265	332b
325589	368493	333a	325684	368517	333b
325589	368653	334a	325655	368525	334b
325583	368501	336a	325678	368529	336b
325515	368599	337a	325601	368507	337b
325515	368599	338a	325589	368653	338b
325285	371191	340a	325386	371067	340b
325278	369143	341a	325343	368935	341b
325269	371159	342a	325280	371190	342b
325234	370069	347a	325282	370100	347b
325228	370076	348a	325257	370093	348b
325203	370107	349a	325280	370151	349b
325181	369471	350a	325299	369558	350b

325118	370888	352a	325269	371159	352b
325054	370382	354a	325136	370425	354b
324975	370644	356a	325094	370577	356b
324927	370546	358a	325114	370883	358b
324927	370546	359a	325136	370425	359b
317403	373102	364a	317359	373295	364b

## SCHEDULE 12

Article 48

### Arbitration rules

#### Primary objective

1.—(1) The primary objective of these Arbitration Rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within 4 months from the date the Arbitrator is appointed pursuant to article 48 (arbitration) of the Order.

(2) The Parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the Parties. Any dispute which is not resolved amicably by the senior management of the Parties within twenty business days of the dispute arising, or such longer period as agreed in writing by the Parties, will be subject to arbitration in accordance with the terms of this Schedule.

(3) The Arbitration will be deemed to have commenced when a party (“the Claimant”) serves a written notice of arbitration on the other party (“the Respondent”).

#### Time periods

2.—(1) All time periods in these Arbitration Rules will be measured in business days and this will exclude weekends, bank and public holidays.

(2) Time periods will be calculated from the day after the Arbitrator is appointed which will be either—

- (a) the date the Arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or
- (b) the date the Arbitrator is appointed by the Secretary of State.

#### Timetable

3.—(1) The timetable for the arbitration will be that set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 15 days of the Arbitrator being appointed, the Claimant must provide both the Respondent and the Arbitrator with—

- (a) a written Statement of Claim which describes the nature of the difference between the parties, the legal and factual issues, the Claimant’s contentions as to those issues, and the remedy it is seeking; and
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 15 days of receipt of the Claimant’s statements under sub-paragraph (2) by the Arbitrator and Respondent, the Respondent must provide the Claimant and the Arbitrator with—

- (a) a written Statement of Defence responding to the Claimant’s Statement of Claim, its statement in respect of the nature of the difference, the legal and factual issues in the Claimant’s claim, its acceptance of any element(s) of the Claimant’s claim, its contentions as to those elements of the Claimant’s claim it does not accept;

- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and
  - (c) any objections it wishes to make to the Claimant's statements, comments on the Claimant's expert report(s) (if submitted by the Claimant) and explanations for the objections.
- (4) Within 5 days of the Respondent serving its statements sub-paragraph (3), the Claimant may make a Statement of Reply by providing both the Respondent and the Arbitrator with—
- (a) a written statement responding to the Respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
  - (b) all statements of evidence and copies of documents in response to the Respondent's submissions;
  - (c) any expert report in response to the Respondent's submissions;
  - (d) any objections to the statements of evidence, expert reports or other documents submitted by the Respondent; and
  - (e) its written submissions in response to the legal and factual issues involved.

## **Procedure**

4.—(1) The Arbitrator will make an award on the substantive difference based solely on the written material submitted by the parties unless the Arbitrator decides that a hearing is necessary to explain or resolve any matters.

(2) Either party may, within 2 days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(3) Within 5 days of receiving the last submission, the Arbitrator will notify the parties whether a hearing is to be held and the length of that hearing.

(4) Within 10 days of the Arbitrator advising the parties that he will hold a hearing, the date and venue for the hearing will be fixed by agreement with the parties, save that if there is no agreement the Arbitrator must direct a date and venue which he considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the Arbitrator's direction confirming the date and venue of the hearing.

(5) A decision will be made by the Arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the Arbitrator, then any expert(s) attending the hearing may be asked questions by the Arbitrator.

(6) There will be no process of examination and cross-examination of experts, but the Arbitrator will invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the Arbitrator's questions. Prior to the hearing the procedure for the expert(s) will be that—

- (a) at least 20 days before a hearing, the Arbitrator will provide a list of issues to be addressed by the expert(s);
- (b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 10 days of the issues being provided; and
- (c) the form and content of a joint report will be as directed by the Arbitrator and must be provided at least 5 days before the hearing.

(7) Within 10 days of a Hearing or a decision by the Arbitrator that no hearing is to be held the Parties may by way of exchange provide the Arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The Arbitrator will take these submissions into account in the Award.

(8) The Arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within 4 months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(9) If a party fails to comply with the timetable, procedure or any other direction then the Arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(10) The Arbitrator's award must include reasons. The parties will accept that the extent to which reasons are given is to be proportionate to the issues in dispute and the time available to the Arbitrator to deliver the award.

### **Arbitrator's powers**

**5.—**(1) The Arbitrator has all the powers of the Arbitration Act 1996(a), including the non-mandatory sections, save where modified by these Rules.

(2) There will be no discovery or disclosure, except that the Arbitrator has the power to order the parties to produce such documents as are reasonably requested by another party no later than the Statement of Reply, or by the Arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the Arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the Arbitrator. In the absence of agreement, the Arbitrator may vary the timescales and/or procedure—

- (a) if the Arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;
- (b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the Arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the Arbitrator's fees and expenses.

### **Costs**

**6.—**(1) The costs of the Arbitration will include the fees and expenses of the Arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the Arbitration.

(2) Subject to sub-paragraph (3), the Arbitrator will award recoverable costs on the general principle that each party should bear its own costs.

(3) The Arbitrator may depart from the general principle in sub-paragraph (2) and make such other costs award as it considers reasonable where a party has behaved unreasonably as defined within the National Planning Practice Guidance or such other guidance as may replace it.

### **Confidentiality**

**7.—**(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation will be confidential and will only be publically disclosed where required by law or with the agreement of both parties.

(2) The Arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph prevents any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order grants development consent for, and authorises the construction, operation and maintenance of a pipeline for the transport of carbon dioxide from Ince, near Stanlow in the County of Cheshire and Chester West to the Point of Ayr Terminal, Talacre, Flintshire. This Order imposes requirements in connection with the development and authorises the compulsory purchase of land (including rights in land) and the right to use land and to override easements and other rights. A copy of the plans and book of reference referred to in this Order and certified in accordance with article 44 (certification of plans) may be inspected free of charge at the offices of Liverpool Bay CCS at Eni House, 10 Ebury Bridge Road, London SW1W 8PZ.