

## Connah's Quay Low Carbon Power

### Statement of Reasons

Planning Inspectorate Reference: EN010166

Document Reference: EN010166/4.3

Planning Act 2008 (as amended)

Infrastructure Planning (Applications: Prescribed Forms and Procedure)

Regulations 2009 - Regulation 5(2)(h)

Revision 01

January 2026

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# 1. Executive Summary

## 1.1 Purpose and Structure of this Statement of Reasons

- 1.1.1 Uniper UK Limited (the Applicant) has made an application (the Application) for a development consent order (DCO) from the Secretary of State (SoS) to authorise the Connah's Quay Low Carbon Power project (the 'Project' and also described as 'the Proposed Development') which is described at Schedule 1 (Authorised Development) to the **Draft DCO (EN010166/APP/3.1)**, which accompanies the Application and is entitled The Connah's Quay Low Carbon Power Order 2021[\*] (the Order) (**EN010166/APP/3.1**). The Application was accepted for examination on 28<sup>th</sup> August 2025 and the Examination commenced on 13<sup>th</sup> January 2026.
- 1.1.2 The matters addressed in this Statement are summarised in this section. Unless the context indicates otherwise, references to numbered sections or paragraphs are to sections or paragraphs of this Statement. Terms used in this Executive Summary are defined in the main body of this Statement.
- 1.1.3 This Statement explains why it is necessary, proportionate and justifiable for the Application to seek powers of compulsory acquisition for the Proposed Development, and why there is a compelling case in the public interest for the undertaker (as defined in the **Draft DCO (EN010166/APP/3.1)**) to be granted these powers.

## 1.2 Description of the Proposed Development

- 1.2.1 The Applicant is seeking a Development Consent Order (DCO) for the construction, operation (including maintenance) and decommissioning of a proposed low carbon Combined Cycle Gas Turbine (CCGT) Generating Station fitted with Carbon Capture Plant (CCP) (the Connah's Quay Low Carbon Power (CQLCP) Abated Generating Station) and supporting infrastructure (collectively 'the Proposed Development').
- 1.2.2 The CQLCP Abated Generating Station would comprise up to two CCGT with CCP units (and supporting infrastructure) achieving a net electrical output capacity of more than 350 megawatts (MW; referred to as MWe for electrical output) and up to a likely maximum of 1,380 MWe (with CCP operational) onto the national electricity transmission network.
- 1.2.3 Through a carbon dioxide (CO<sub>2</sub>) pipeline, comprising existing and new elements, the Proposed Development would make use of CO<sub>2</sub> transport and storage networks owned and operated by Liverpool Bay CCS Limited, currently under development as part of the HyNet Carbon Dioxide Pipeline project (referred to as the 'HyNet CO<sub>2</sub> Pipeline Project'), that will transport CO<sub>2</sub> captured from existing and new industries in North Wales and North-West England, for offshore storage. The captured CO<sub>2</sub> will be permanently stored in depleted offshore gas reservoirs in Liverpool Bay.
- 1.2.4 For the purposes of the electrical connection, National Grid Electricity Transmission plc (NGET), which builds and maintains the electricity transmission networks, is responsible for the operation and maintenance of the existing 400 kV NGET Substation.

1.2.5 A description of the Proposed Development, including details of maximum parameters, is set out in **Chapter 4: The Proposed Development** of the **Environmental Statement (ES) (EN010166/APP/6.2.4)**. At this stage in the development, the design of the Proposed Development incorporates a necessary degree of flexibility to allow for ongoing design development.

1.2.6 The Proposed Development is split into 13 Work Nos. and also includes Site Wide Works, which may be carried out in connection with the construction of Work Nos. 1 to 13, as follows:

- **Work No. 1** – A CCGT electricity generating station of more than 350 MW with CCP and ancillary buildings and structures within the Main Development Area. This includes:
  - up to two combined cycle gas turbine plants;
  - up to two carbon dioxide (CO<sub>2</sub>) capture plants;
  - plant cooling and utilities infrastructure;
  - natural gas reception facility;
  - carbon dioxide interface facility;
  - administration, control room and stores;
  - demolition of existing buildings and structures including the existing gas treatment plant;
  - demolition of the existing ENI Above Ground Installation (AGI); and
  - various ancillary works.
- **Work No. 2** – Infrastructure connection works, including:
  - works to connect to an existing high pressure gas supply pipeline running within the existing power station site;
  - underground and potentially overground electrical cables and control system cables to connect Work No. 1 to switch disconnectors;
  - new connections and improvements to existing water pipelines between Work No. 1 and the supply point north of Kelsterton Road; and
  - cooling water connections from Work No. 3 to Work No. 1.
- **Work No. 3** – Water supply connection works to provide cooling water to Work No. 1 and discharge of used cooling water and treated process water. This Work comprises works to the existing cooling water supply pipelines between Work No. 1 and the River Dee and the existing intake structures within the River Dee between the existing concrete manifold and existing protection structure.
- **Work No. 4** – Temporary construction and laydown areas.
- **Work No. 5** – Construction of a surface water discharge.
- **Work No. 6** – Electrical connection works for the export and import of electricity, including works within the existing National Grid substation.
- **Work No. 7** – Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 422 metres in length between Work No. 8 and the existing repurposed natural gas pipeline (to be used for CO<sub>2</sub>).

- **Work No. 8** – Modification of an AGI at Flint to connect the CO<sub>2</sub> pipeline into the HyNet CO<sub>2</sub> Pipeline.
- **Work No. 9** – The creation and use of a temporary logistics and construction compound for the use during the construction.
- **Work No. 10** – Works to provide site access.
- **Work No. 11** – Temporary accommodation works to facilitate haulage route access between the Port of Mostyn and Work No. 1, including the temporary removal of a gate and fence adjacent to the railway and subsequent reinstatement.
- **Work No. 12** – Re-establishment and use of waterborne transport offloading facilities at Connah's Quay North (known as the Corus Jetty) south of Flintshire Bridge and temporary accommodation works to facilitate the haulage route on existing roads between Connah's Quay North and Work No. 1.
- **Work No. 13** – Landscaping, biodiversity enhancement measures and boundary treatment.
- **Site Wide Works** – Further associated and ancillary development comprising such other works or operations as may be necessary or expedient.

## 1.3 Description of the Proposed Development Site and Order Land

- 1.3.1 The Proposed Development's Main Development Area is located approximately 0.6 kilometres (km) north-west of Connah's Quay in Flintshire, north-east Wales. The Main Development Area is centered at national grid reference 327347, 371374. The Order Limits for the Proposed Development lie entirely within the Flintshire County Council (FCC) administrative area.
- 1.3.2 The Order Limits, as shown in **Figure 3.1: Order Limits (EN010166/APP/6.3)**, encompass a total area of approximately 105 hectares (ha).
- 1.3.3 Around 86.2 ha of the Order Limits is focussed on the 'Construction and Operation Area', comprising the Main Development Area, construction areas and connection corridors necessary for the construction and operation of the Proposed Development shown in **Figure 3-1: Order Limits (EN010166/APP/6.3)**. A further 18.8 ha of land included for the 'Accommodation Works Areas', comprising areas of works required to facilitate the movement and temporary storage of Abnormal Indivisible Loads (AIL) during construction of the Proposed Development.
- 1.3.4 The Order Limits include the existing Connah's Quay Power Station site, owned and operated by the Applicant, and adjacent land for the purposes of facilitating connections to the Proposed Development for gas, electricity, water and other necessary infrastructure.
- 1.3.5 The town of Connah's Quay is located to the south-east of the existing Connah's Quay Power Station and the Main Development Area, immediately beyond the A548 and the North Wales Main Line railway. The area to the south-west of the Main Development Area is mainly used for pastoral

agriculture with some arable agriculture while the area to the north-west of the Main Development Area is a nature reserve within several statutory designated sites.

1.3.6 The Order Limits include the following areas:

- The Construction and Operation Area, including:
  - the Main Development Area, which is an area of around 56.5 ha that includes operational parts of the existing Connah's Quay Power Station and agricultural fields. Areas of the Main Development Area would be developed for the proposed CCGT and CCP and used for temporary laydown areas during construction. An existing 400 kilovolt (kV) high-voltage overhead electrical transmission line crosses the Main Development Area. It is bordered generally to the north by the Dee Estuary, to the east by the existing National Grid Electricity Transmission plc (NGET) 400 kV Substation, and to the south by the North Wales Main Line railway;
  - the Repurposed CO<sub>2</sub> Connection Corridor is an area between the south-west corner of the Main Development Area and the north-east corner of the Proposed CO<sub>2</sub> Connection Corridor. It comprises around 4.3 ha and is largely agricultural fields and hedgerows. It follows the route of an existing underground gas pipeline and forms approximately 3 km of an overall 27 km pipeline route between the existing Connah's Quay Power Station and Point of Ayr Gas Terminal to the north-west;
  - the Proposed CO<sub>2</sub> Connection Corridor mirrors the area consented for the Flint AGI and Newbuild CO<sub>2</sub> Pipeline works within the HyNet CO<sub>2</sub> Pipeline Project<sup>1</sup>. It comprises around 6.3 ha within which a new CO<sub>2</sub> export pipeline approximately 422 m in length for the Proposed Development would be constructed linking the Repurposed CO<sub>2</sub> Connection Corridor at one end, with the Flint AGI at the other end. Modifications to the Flint AGI would also take place within this corridor;
  - the Water Connection Corridor is an area of around 1.6 ha which includes the existing abstraction and discharge infrastructure for cooling water sourced from the River Dee for the existing Connah's Quay Power Station. It includes both intertidal mudflat and saltmarsh habitats of the Dee Estuary and the River Dee itself. The Proposed Development will utilise the existing Connah's Quay Power Station abstraction and discharge infrastructure for re-use with some refurbishment and additions;
  - the Electrical Connection Corridor is an area of around 3.4 ha which includes the existing electrical export transmission cable(s) that interface with the Main Development Area and the existing NGET 400 kV Substation;
  - the Construction and Indicative Enhancement Area (C&IEA) is an approximate 12.6 ha area of vacant land under the Applicant's ownership south-east of the Main Development Area, which currently comprises derelict hardstanding with scrub / grass vegetation, open grassland and small trees. Following use during construction as a

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<sup>1</sup> Consented under The HyNet Carbon Dioxide Pipeline Order 2024, <https://www.legislation.gov.uk/ksi/2024/436/contents> (accessed 20 April 2025).

laydown area, it may be used for biodiversity mitigation and / or enhancement;

- the Main Development Area Access Works Area comprises the existing Kelsterton Road, including a bridge over the North Wales Main Line railway, and part of a former junction between the A548 and Kelsterton Road. This area comprises around 0.2 ha of existing hardstanding with small areas of roadside, kerbs, trees and grass;
- the Access to C&IEA would be provided during construction to and from the Main Development Area via an existing hard standing internal access road;
- the Alternative Access to Main Development Area is an existing hardstanding road that runs from the B5112 towards the Electrical Connection Corridor beneath the A548 Flintshire Bridge, before intersecting with the Access to C&IEA; and
- the Surface Water Outfall is the area adjacent to the northern extent of the Main Development Area, including and surrounding the existing artificial outfall for surface water drainage (the Existing Surface Water Outfall) from the existing Connah's Quay Power Station into the Dee Estuary; and
- The Accommodation Works Areas, including:
  - the A548 from Port of Mostyn to Greenfield follows an existing highway along the A548 between the entrance to the Port of Mostyn and the village of Greenfield and the immediate entrance of the existing Port of Mostyn;
  - the Tir Glas Roundabout on the A548 between Greenfield and Whelston;
  - the A548 through Flint to Chester Road Roundabout follows an existing highway along the A548 through Flint and includes the Chester Road roundabout;
  - the AIL Access comprises a section of the A548 Chester Road adjacent to the Main Development Area Access Works Area and a wooded verge on Kelsterton Road adjacent to the Kelsterton Road / A548 Chester Road;
  - the Connah's Quay North Accommodation Works comprises the existing jetty at Connah's Quay North, including marine and terrestrial components, and the access road from North Road/River Road. The marine components comprise a small section the Dee Estuary and existing jetty infrastructure (including a piled concrete retaining wall). The terrestrial component comprises hard standing areas and some but limited areas of vegetation; and
  - the North Road to the A548 comprises North Road from the entrance to Connah's Quay North to the A548 Weighbridge Road roundabout.

## 1.4 Compulsory Acquisition Powers

### 1.4.1 The powers sought are:

- All interests in land, including freehold (Article 25 in the **Draft DCO (EN010166/APP/3.1)**<sup>2</sup>) – shown edged red and shaded pink on the **Land Plans (EN010166/APP/2.2)** and **Crown Land Plans (EN010166/APP/2.3)**.
- Permanent acquisition of subsurface (Article 25 in the **Draft DCO (EN010166/APP/3.1)**) – shown edged red and shaded with blue and red hatching on the **Land Plans (EN010166/APP/2.2)** and **Crown Land Plans (EN010166/APP/2.3)**.
- Statutory authority to override easements and other rights (Article 28 in the **Draft DCO (EN010166/APP/3.1)**).
- Permanent acquisition of new rights and imposition of restrictive covenants (Article 27 in the **Draft DCO (EN010166/APP/3.1)**) – shown edged red and shaded blue on the **Land Plans (EN010166/APP/2.2)** and **Crown Land Plans (EN010166/APP/2.3)**.
- Extinguishment of rights (Article 30 in the **Draft DCO (EN010166/APP/3.1)**).
- All interests in land, including freehold, in respect of subsoil and airspace only (Article 33 in the **Draft DCO (EN010166/APP/3.1)**).
- Temporary use of land for carrying out and maintaining the authorised development (Articles 36 and 37 in the **Draft DCO (EN010166/APP/3.1)**).

## 1.5 Need for the Compulsory Acquisition of Land and Rights

1.5.1 The undertaker requires powers of compulsory acquisition to ensure that the Proposed Development can be constructed and operated in order to contribute to maintaining a secure and stable supply of electricity and so that the Government's policies in relation to the timely delivery of low carbon infrastructure and achieving the UK's net zero targets are met. The Applicant considers that, in the absence of these powers, there would remain a risk that the Order Land would not be fully assembled and the Proposed Development would not be delivered, meaning that Government policy objectives would not be achieved.

1.5.2 This Statement of Reasons (alongside the **Land and Rights Negotiations Tracker (EN010166/APP/4.2)**) sets out the current status of the negotiations undertaken to date with affected persons. Details of how the Applicant identified persons with an interest in the affected land are set out in the **Consultation Report (EN010166/APP/5.1)**.

1.5.3 The Applicant has sought to use alternatives to compulsory acquisition but considers that these would not achieve the objectives of the Proposed Development and the significant public benefits of the Proposed Development would not arise.

1.5.4 The Applicant has sought to acquire the necessary land and rights by agreement, however, the Applicant has not been able to enter voluntary agreements with all landowners at this time. Whilst it will continue to seek to acquire the land and rights by voluntary agreement, it requires the powers of

<sup>2</sup> A draft of the Order has been submitted with the Application. All references to the **Draft DCO (EN010166/APP/3.1)** throughout this Statement are to that draft document.

compulsory acquisition sought in the Application in order to provide certainty that all the land required for the Proposed Development can be acquired, in order to realise the Proposed Development's significant public benefits.

## 1.6 Justification for the Use of the Powers of Compulsory Acquisition

1.6.1 The principal justification for the use of powers of compulsory acquisition arises from the fact that the Proposed Development will deliver the following benefits:

- meet an urgent need for new low carbon electricity generation;
- support the decarbonisation of the power sector, by providing the development of a low carbon electricity generating station, helping the UK meet its net zero 2050 target;
- underpin the security of electricity supplies, providing dispatchable, flexible electricity generation when the contribution from renewable sources of energy (e.g. solar and wind) is lower;
- provide economic development that is suitable in its local context and provides local economic and social benefits;
- minimise or mitigate adverse impacts to an acceptable degree; and
- be compliant with National Policy Statements (NPS) EN-1, EN-2, EN-4 and EN-5 and in accordance with other decision-making factors specified in Section 104 of the Planning Act 2008 (2008 Act).

## 1.7 Special Considerations

1.7.1 There are Crown interests within the Order Land. The **Draft DCO (EN010166/APP/3.1)** includes an article (Article 43) protecting the position of the Crown. The Applicant has sought engagement with relevant Crown bodies in order to secure the rights and access necessary to carry out the relevant parts of the authorised development and to obtain the consent of the Crown to the inclusion of provisions applying in relation to Crown land.

1.7.2 The land or apparatus of a number of statutory undertakers would be affected by the Proposed Development. Protective provisions have been included within the **Draft DCO (EN010166/APP/3.1)** at Schedule 13, which the Applicant has agreed or is in the process of seeking to agree with each statutory undertaker. Further detail on the status of agreement with each statutory undertaker on the protective provisions can be found within the **Explanatory Memorandum (EN010166/APP/3.2)**.

## 1.8 No Impediments

1.8.1 In addition to the Order, the Proposed Development requires a number of other consents in order to construct and operate the Proposed Development. The Applicant is not aware of any reason why these other consents required would not be granted and does not consider that they represent any impediment to the Proposed Development proceeding. Further details on these are set out in the **Consents and Agreement Position Statement (EN010166/APP/3.3)**.

## 1.9 Human Rights

1.9.1 The **Draft DCO (EN010166/APP/3.1)** has the potential to infringe the human rights of persons who own property or have rights in the land proposed to be acquired pursuant to the Order. The Applicant considers that there would be significant public benefit arising from the making of the Order. That benefit can only be realised if the Order includes compulsory acquisition powers. The purpose for which the land is sought (to construct and operate the Proposed Development) is legitimate. The Applicant considers that there is a compelling case in the public interest for the powers of compulsory acquisition to be granted. The Applicant considers that it would be appropriate and proportionate for the SoS to make the Order including the compulsory acquisition powers sought.

## 1.10 Conclusion

1.10.1 The Applicant submits, for the reasons explained in this Statement, that the inclusion of powers of compulsory acquisition in the Order for the purposes of the Proposed Development meets the conditions of section 122 of the 2008 Act, as well as the considerations in the 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' (CA Guidance) (Ref. 1.3), and that these powers should therefore be included in the Order.

## 2. Introduction

### 2.1 Overview

2.1.1 This Statement of Reasons (Statement) has been prepared on behalf of the Applicant. It forms part of the Application for a DCO that has been submitted to the Planning Inspectorate on behalf of the SoS under section 37 of the 2008 Act (Ref. 1.1) for the Proposed Development.

2.1.2 The CQLCP Abated Generating Station would comprise up to two CCGT with CCP units (and supporting infrastructure) achieving a net electrical output capacity of more than 350 megawatts (MW; referred to as MWe for electrical output) and up to a likely maximum of 1,380 MWe (with CCP operational) onto the national electricity transmission network.

2.1.3 The Proposed Development is described in detail in Schedule 1 of the **Draft DCO (EN010166/APP/3.1)**, and the areas in which each component (the Work Nos.) may be constructed are shown on the **Works Plans (EN010166/APP/2.4)**.

2.1.4 The Proposed Development comprises:

- a CCGT electricity generating station of more than 350 MWe net electrical output with CCP and ancillary buildings and structures within the Main Development Area. The CCGT with CCP plant will comprise up to two new 'Trains' (each Train comprising one CCGT and one CCP);
- demolition works at the existing Connah's Quay Power Station Site, including demolition of the existing Gas Treatment Plant (GTP), Above Ground Installation (AGI), store buildings and contractors' facilities;
- Proposed CO<sub>2</sub> AGI – which will be located within the Main Development Area;
- Repurposed CO<sub>2</sub> Connection Corridor – the export of CO<sub>2</sub> will utilise approximately 3 km of an existing natural gas pipeline. It includes a buffer zone of up to 24.4 m width;
- Proposed CO<sub>2</sub> Connection Corridor – captured CO<sub>2</sub> emissions from the Proposed Development will be discharged from the Repurposed CO<sub>2</sub> Connection Corridor, via a new proposed CO<sub>2</sub> pipeline that is around 422 metres in length (the Proposed CO<sub>2</sub> Connection) into Liverpool Bay CCS Limited's Flint AGI (which is part of the proposed HyNet CO<sub>2</sub> Pipeline Project) and then into the HyNet CO<sub>2</sub> Pipeline;
- Water Connection Corridor – cooling water for the Proposed Development will be abstracted from and discharged to the River Dee, in-line with the current process for the existing Connah's Quay Power Station. This will require the refurbishment of the existing cooling water abstraction and discharge infrastructure;
- Electrical Connection Corridor – a new connection will be required from the CCGT plant to the Applicant's existing 400 kV banking compound. The existing electrical connection from the Applicant's banking compound is expected to be used to connect the Proposed Development to the existing Connah's Quay Substation located south-east of the Main Development Area;

- a C&IEA;
- Accesses and access works;
- Accommodation Works Areas – works required to facilitate the transport of AILs to the Main Development Area, including the local highway network between the Port of Mostyn and the Main Development Area, as well as works at the Connah's Quay North Jetty and local highway network between the Jetty and the Main Development Area; and
- Site Wide Works – further associated development comprising such other works or operations as may be necessary or expedient across the Order Limits.

2.1.5 As the proposed generating capacity exceeds 350 MW, the Proposed Development is classified as a Nationally Significant Infrastructure Project (NSIP) under sections 14(1)(a) and 15(1) and (3A) of the 2008 Act. A DCO is therefore required for the Proposed Development.

## 2.2 The Applicant

2.2.1 The Applicant is a UK-based company, wholly owned by Uniper SE (Uniper) through Uniper Holding GmbH. Uniper is a European energy company with global reach and activities in more than 40 countries. With around 7,500 employees, the company makes an important contribution to security of supply in Europe, particularly in its core markets of Germany, the UK, Sweden, and the Netherlands. In the UK, Uniper owns and operates a flexible generation portfolio of power stations, a fast-cycle gas storage facility and two high pressure gas pipelines, from Theddlethorpe to Killingholme and from Blyborough to Cottam.

2.2.2 Uniper is committed to investing around €8 billion (~£6.9 billion) in growth and transformation projects by the early 2030s and aims to be carbon-neutral by 2040. To achieve this, the company is transforming its power plants and facilities and investing in flexible, dispatchable power generation units. Uniper is one of Europe's largest operators of hydropower plants and is helping further expand solar and wind power, which are essential for a more sustainable and secure future. Uniper is gradually adding renewable and low-carbon gases such as biomethane to its gas portfolio and is developing a hydrogen portfolio with the aim of a long-term transition. The company plans to offset any remaining CO<sub>2</sub> emissions by high-quality CO<sub>2</sub>-offsets.

## 2.3 The Undertaker

2.3.1 The 'undertaker' for the purposes of the **Draft DCO (EN010166/APP/3.1)** is defined as "*Uniper UK Limited or any person who for the time being has the benefit of this Order in accordance with Articles 7 (Benefit of the Order) and 8 (Consent to transfer benefit of Order)*". Uniper UK Limited is the Applicant for the Proposed Development and so has the benefit of the Order generally. Article 7 then specifies that:

- ENI UK Limited has the benefit of the Order for the ENI Works;
- Liverpool Bay CCS Limited has the benefit of the Order for the Liverpool Bay CCS Works; and
- National Grid has the benefit of the Order for the National Grid Works.

## 2.4 The Proposed Development Site

2.4.1 The Proposed Development's Main Development Area is located approximately 0.6 km north-west of Connah's Quay in Flintshire, north-east Wales. The Main Development Area is centered at national grid reference 327347, 371374. The Order Limits for the Proposed Development lie entirely within the FCC administrative area.

2.4.2 The Order Limits, as shown in **Figure 3.1: Order Limits (EN010166/APP/6.3)**, encompass a total area of approximately 105 ha. Around 18.8 ha of land is included within the Order Limits for the receipt and delivery of AILs to the Main Development Area from local ports (the Accommodation Works Areas), during construction. Around 86.2 ha of the Order Limits is focused on the Construction and Operation Area.

2.4.3 The Order Limits include the existing Connah's Quay Power Station site, owned and operated by the Applicant, and adjacent land for the purposes of facilitating connections to the Proposed Development for gas, electricity, water and other necessary infrastructure.

2.4.4 The town of Connah's Quay is located to the south-east of the existing Connah's Quay Power Station and the Main Development Area, immediately beyond the A548 and the North Wales Main Line railway. The area to the south-west of the Main Development Area is mainly used for pastoral agriculture with some arable agriculture while the area to the north-west of the Main Development Area is a nature reserve within several statutory designated sites.

2.4.5 The Order Limits include the land shown outlined in red on the **Land Plans (EN010166/APP/2.2)** within which the Proposed Development must be carried out and which may be subject to a right to override easements and other rights upon appropriation of the land for the purposes of the Proposed Development, and the extinguishment of private rights of way. The Order Land is the land over which compulsory powers are being applied for, which is described in the **Book of Reference (EN010166/APP/4.1)** and shown on the **Land Plans (EN010166/APP/2.2)** and **Crown Land Plans (EN010166/APP/2.3)**.

2.4.6 Further information about the Order Land is provided in Environmental Statement (ES) Chapter 4: The Proposed Development (EN010166/APP/6.2.4).

## 2.5 Proposed Development Description

2.5.1 The Proposed Development is split into 13 Work Nos. and also includes Site Wide Works, which may be carried out in connection with the construction of Work Nos. 1 to 13, as follows:

- **Work No. 1** – A CCGT electricity generating station of more than 350 MW with CCP and ancillary buildings and structures within the Main Development Area. This includes:
  - up to two combined cycle gas turbine plants;
  - up to two carbon dioxide (CO<sub>2</sub>) capture plants;
  - plant cooling and utilities infrastructure;

- natural gas reception facility;
- carbon dioxide interface facility;
- administration, control room and stores;
- demolition of existing buildings and structures including the existing gas treatment plant;
- demolition of the existing ENI AGI; and
- various ancillary works.

- **Work No. 2** – Infrastructure connection works, including:
  - works to connect to an existing high pressure gas supply pipeline running within the existing power station site.
  - underground and potentially overground electrical cables and control system cables to connect Work No. 1 to switch disconnectors.
  - new connections and improvements to existing water pipelines between Work No. 1 and the supply point north of Kelsterton Road.
  - cooling water connections from Work No. 3 to Work No. 1.
- **Work No. 3** – Water supply connection works to provide cooling water to Work No. 1 and discharge of used cooling water and treated process water. This Work comprises works to the existing cooling water supply pipelines between Work No. 1 and the River Dee and the existing intake structures within the River Dee between the existing concrete manifold and existing protection structure.
- **Work No. 4** – Temporary construction and laydown areas.
- **Work No. 5** – Construction of a surface water discharge.
- **Work No. 6** – Electrical connection works for the export and import of electricity, including works within the existing National Grid substation.
- **Work No. 7** – Construction of an underground Carbon Dioxide (CO<sub>2</sub>) pipeline approximately 422 metres in length between Work No. 8 and the existing repurposed natural gas pipeline (to be used for CO<sub>2</sub>).
- **Work No. 8** – Modification of an AGI at Flint to connect the CO<sub>2</sub> pipeline into the HyNet CO<sub>2</sub> Pipeline.
- **Work No. 9** – The creation and use of a temporary logistics and construction compound for the use during the construction.
- **Work No. 10** – Works to provide site access.
- **Work No. 11** – Temporary accommodation works to facilitate haulage route access between the Port of Mostyn and Work No. 1, including the temporary removal of a gate and fence adjacent to the railway and subsequent reinstatement.
- **Work No. 12** – Re-establishment and use of waterborne transport offloading facilities at Connah's Quay North (known as the Corus Jetty) south of Flintshire Bridge and temporary accommodation works to facilitate haulage route on existing roads between Connah's Quay North and Work No. 1.

- **Work No. 13** – Landscaping, biodiversity enhancement measures and boundary treatment.

2.5.2 **Site Wide Works** – Further associated and ancillary development comprising such other works or operations as may be necessary or expedient.

2.5.3 A more detailed description of the Proposed Development is provided at Schedule 1 of the **Draft DCO (EN010166/APP/3.1)** and **ES Chapter 4: The Proposed Development (EN010166/APP/6.2.4)**. The areas within which each of the main components of the Proposed Development are to be built are shown by the coloured and hatched areas on the **Works Plans (EN010166/APP/2.4)**.

## 2.6 The purpose and structure of this Statement

2.6.1 The purpose of this Statement is to explain why it is necessary, proportionate and justifiable for the Applicant to seek powers of compulsory acquisition in the Order for the undertaker to acquire land, acquire or create rights over land, to extinguish or suspend rights over land, and to temporarily use land for the purposes of the Proposed Development, and why there is a compelling case in the public interest for the undertaker to be granted these powers.

- This Statement has been prepared in accordance with the requirements of section 37(3)(d) of the 2008 Act, regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations) (Ref. 1.2) and the CA Guidance (Ref. 1.3).
- This Statement should be read alongside the other Application documents that relate to the compulsory acquisition powers sought for the undertaker and the need for the Proposed Development, including:
  - **Land Plans (EN010166/APP/2.2)**;
  - **Crown Land Plans (EN010166/APP/2.3)**;
  - **Works Plans (EN010166/APP/2.4)**;
  - **Draft DCO (EN010166/APP/3.1)**;
  - **Explanatory Memorandum (EN010166/APP/3.2)**;
  - **Consents and Agreement Position Statement (EN010166/APP/3.3)**;
  - **Book of Reference (EN010166/APP/4.1)**;
  - **Funding Statement (EN010166/APP/4.4)**;
  - **Land and Rights Negotiations Tracker (EN010166/APP/4.2)**;
  - **ES (EN010166/APP/6.1-6.4)**;
  - **Consultation Report (EN010166/APP/5.1)**; and
  - **Planning Statement (EN010166/APP/7.6)**.

# 3. Description of the Proposed Development

## 3.1 Overview

3.1.1 This Section provides further detail on the components of the Proposed Development. The development to which the Proposed Development applies is set out at Schedule 1 to the **Draft DCO (EN010166/APP/3.1)** and is called the "authorised development" in that document. The **Works Plans (EN010166/APP/2.4)** show the areas in which the parts of the Proposed Development may be constructed.

3.1.2 Full details of the Proposed Development can be found in ES **Chapter 4: The Proposed Development (EN010166/APP/6.2.4)**.

## 3.2 Key components of the Proposed Development

3.2.1 The Proposed Development comprises:

- a CCGT electricity generating station of more than 350 MWe net electrical output with CCP and ancillary buildings and structures within the Main Development Area. The CCGT with CCP plant will comprise up to two new 'Trains' (each Train comprising one CCGT and one CCP);
- demolition works at the existing Connah's Quay Power Station Site, including demolition of the existing GTP, AGI, store buildings and contractors' facilities;
- Proposed CO<sub>2</sub> AGI – which will be located within the Main Development Area;
- Repurposed CO<sub>2</sub> Connection Corridor – the export of CO<sub>2</sub> will utilise approximately 3 km of an existing natural gas pipeline. It includes a buffer zone of up to 24.4 m width;
- Proposed CO<sub>2</sub> Connection Corridor – captured CO<sub>2</sub> emissions from the Proposed Development will be discharged from the Repurposed CO<sub>2</sub> Connection Corridor, via a new proposed CO<sub>2</sub> pipeline that is around 422 metres in length (the Proposed CO<sub>2</sub> Connection) into Liverpool Bay CCS Limited's Flint AGI (which is part of the proposed HyNet CO<sub>2</sub> Pipeline Project) and then into the HyNet CO<sub>2</sub> Pipeline;
- Water Connection Corridor – cooling water for the Proposed Development will be abstracted from and discharged to the River Dee, in-line with the current process for the existing Connah's Quay Power Station. This will require the refurbishment of the existing cooling water abstraction and discharge infrastructure;
- Electrical Connection Corridor – a new connection will be required from the CCGT plant to the Applicant's existing 400 kV banking compound. The existing electrical connection from the Applicant's banking compound is expected to be used to connect the Proposed Development to the existing Connah's Quay Substation located south-east of the Main Development Area;
- a C&IEA;

- Accesses and access works;
- Accommodation Works Areas – works required to facilitate the transport of AILs to the Main Development Area, including the local highway network between the Port of Mostyn and the Main Development Area, as well as works at the Connah's Quay North Jetty and local highway network between the Jetty and the Main Development Area; and
- Site Wide Works – further associated development comprising such other works or operations as may be necessary or expedient across the Order Limits.

### 3.3 Flexibility

3.3.1 The **Draft DCO (EN010166/APP/3.1)** and the **Works Plans (EN010166/APP/2.4)** maintain appropriate flexibility to maximise the Proposed Development's benefits.

3.3.2 This is in accordance with section 4.3 of the Overarching NPS for Energy EN-1.

3.3.3 Given the flexibility applied for and in order to ensure a robust assessment of the likely significant environmental effects of the Proposed Development, the Environmental Impact Assessment (EIA) has been undertaken adopting the principles of the 'Rochdale Envelope' where appropriate, as described in the Planning Inspectorate's Advice Note Nine: Rochdale Envelope (republished in July 2018 and updated in March 2025, version 3) (Ref. 1.4).

3.3.4 This involves assessing the maximum (and where relevant, minimum) parameters for the Proposed Development where flexibility needs to be retained, while ensuring all likely significant effects (beneficial or adverse) are considered. This approach sets worst case parameters for the purpose of the assessment but does not constrain the Proposed Development from being built in a manner that would lead to lower environmental impacts.

3.3.5 The **Draft DCO (EN010166/APP/3.1)** secures the parameters of the Proposed Development, thus providing certainty that the impacts of the Proposed Development will be no worse than those assessed as part of the EIA. Further detail is provided in **ES Chapter 4: The Proposed Development (EN010166/APP/6.2.4)**.

### 3.4 Timing of construction

3.4.1 Further detail on the programme of construction is provided in **ES Chapter 5: Construction Management and Programme (EN010166/APP/6.2.5)**.

3.4.2 Construction of the Proposed Development could, subject to securing the necessary development consent, start as early as Quarter 4 (Q4) 2026. However, considering that the Order would allow construction to commence up to five years from the date of consent, construction activities may commence as late as Q4 2031 (depending on market needs and financing). For this reason, a scenario whereby construction commences later in the programme, in late 2031 (five years after the Order could have been granted) has also been considered as a reasonable worst-case for some technical assessments in the **ES (EN010166/APP/6.1-6.4)**.

3.4.3 The final programme for construction would be determined by the EPC contractors but is anticipated to include the following main phases:

- A site enabling works phase, including preparation of construction laydown areas and demolition of the existing GTP, existing GTP AGI, and existing stores building, which would be undertaken over a six to nine-month period;
- construction activities for the Proposed CO<sub>2</sub> Connection Corridor (civil and integration works), which would be expected to be completed within approximately nine months;
- earthworks (site preparations) to provide a level development platform where this is required for new permanent infrastructure within the Main Development Area, which would be expected to take six to nine months;
- the main civil works phase and civil, mechanical, electrical and integration works, which would be expected to be completed within approximately two to two and a half years (for each single Train in a phased construction) or up to approximately three and a half years (in the event of simultaneous construction);
- construction activities for the Water Connection Corridor (minor upgrade/repair and integration works), which would be expected to be completed within approximately three to five months; and
- commissioning of the CQLCP Abated Generating Station ahead of commercial operation, which may take up to one year (per single Train in phased construction) or up to two years (both Trains in simultaneous construction).

## 3.5 Operation

3.5.1 Further detail on the programme of construction is provided in **ES Chapter 4: The Proposed Development (EN010166/APP/6.2.4)**.

3.5.2 The Proposed Development would operate flexibly during its lifetime with hours of operation driven by the dynamics of the energy market. The CQLCP Abated Generating Station has been designed to be capable of operating 24 hours per day, seven days per week, with programmed offline periods for maintenance.

3.5.3 Operation of the Proposed Development is anticipated to create approximately 56 permanent operational roles for Train 1 and a total of approximately 66 permanent operational roles once both Trains are operational. Temporary and contractor employees associated with maintenance activities would also be employed, as required. Plant operative staff would typically work on a regular shift pattern.

3.5.4 Permanent access to the CQLCP Abated Generating Station and/or Maintenance Laydown Area for workers and deliveries during operation would be via an existing access to the Connah's Quay Power Station site (Access to Main Development Area) along Uniper Way from Kelsterton Road via the A548. Access from Kelsterton Road is via two roundabouts and crosses the North Wales Main Line railway (an operational rail line located in tunnel section beneath the access road). A new security gatehouse and parking would be

provided at the entrance to the CQLCP Abated Generating Station for staff and visitors.

- 3.5.5 An existing dedicated access road to the wildlife hides for Deeside Naturalists' Society (DNS) members is currently provided by the Applicant and would be re-routed within the Main Development Area. It is anticipated that this dedicated access road would be installed as a single-track tarmac road approximately 10 m to the west / south-west of the perimeter road of the CQLCP Abated Generating Station as shown on ES **Figure 4-1: Indicative Site Layout – Single Absorbers**. Suitable security fencing would be installed and landscaping would be undertaken within the space between the DNS access road and perimeter road.
- 3.5.6 An alternative (emergency) gated and controlled access to the Main Development Area (Alternative Access to Main Development Area) and Access to C&IEA is also available from either Uniper Way, or the B5129 Kelsterton Road south of the existing NGET 400 kV substation.
- 3.5.7 Routine maintenance would be planned and scheduled via the maintenance management system with major outages occurring approximately once every four years (per Train) depending on the nature of plant operations in that period. The contractors would access the Proposed Development via the Access to the Main Development Area from Kelsterton Road. Maintenance laydown facilities would be included within the indicative layout for the CQLCP Abated Generating Station, Maintenance Laydown Area, and within the extent of the existing Connah's Quay Power Station.
- 3.5.8 In relation to the CO<sub>2</sub> and gas connections, if required, pipeline inspection plans would be prepared and Pipeline Inspection Gauge ('pig') launching and receiving facilities for intelligent 'pigging' operations would be considered.
- 3.5.9 The CO<sub>2</sub> Connections and AGIs on this route would not require permanent staffing or personnel presence. The Proposed CO<sub>2</sub> AGI would not include any major machinery. The AGI comprises mainly piping and static equipment elements with isolation valves, instruments, and minor utilities. Routine maintenance of the AGI is expected to be minor and consist of lubrication, replacement of seals and calibration of instruments.
- 3.5.10 No maintenance dredging is planned to be carried out to the Water Connection, in line with existing operation (in which silt is extracted from cooling water on land only) and the limited scope of works during construction. Instead, in the operational phase it is assumed that the proposed intake and outfall infrastructure would be kept clear through the use of a compressed air blasting system, and if required a jet washing system which would be incorporated into the design. The air blast and jet washing activities would only take place on a falling tide to return the silt removed to the estuary sediment budget. Should these options not be sufficient to maintain clean flow through the screen, the use of retrievable screens for mechanical cleaning may be required.

## 3.6 Decommissioning

- 3.6.1 As described in ES **Chapter 2: Assessment Methodology (EN010166/APP/6.2.2)**, each Train of the Proposed Development would have an operational life of up to 30 years. It is expected that the Proposed Development would have some residual life remaining after this operational

life, and an investment decision would then be made based on the market conditions prevailing at that time.

- 3.6.2 On this basis, decommissioning activities are currently anticipated to commence after 2060 (Train 1, if a phased construction approach is adopted) and after 2065 (Train 2 if a phased construction approach is adopted, or if single phase construction is adopted).
- 3.6.3 The Proposed Development is expected to operate for 30 years, with the majority of equipment designed for long-term use. Any future decision to extend its lifespan, would be subject to the undertaker undertaking a financial investment decision based on a number of factors, such as safety and the regulatory requirements at that time.
- 3.6.4 At the end of its operational life, the most likely scenario would be that the Proposed Development would be shut down, with all above-ground structures on the Main Development Area removed, and the ground remediated as required to facilitate future re-use. It is also assumed that cooling water infrastructure within the Dee Estuary would be left in-situ and the associated pipework filled. Any removal contractor would have a legal obligation to consider decommissioning and removal under the Construction (Design and Management) Regulations 2015 (Ref. 1.9), or the equivalent prevailing legislation at that time.
- 3.6.5 It is anticipated that timescales for decommissioning and removal of the Proposed Development could be similar to, or slightly shorter than, its construction and would require provision of office accommodation and welfare facilities.
- 3.6.6 A Decommissioning Environmental Management Plan (DEMP) will be produced at the time of decommissioning, pursuant to a Requirement of the **Draft DCO (EN010166/APP/3.1)**.

## **3.7 Summary**

- 3.7.1 The CQLCP Abated Generating Station would comprise up to two CCGT with CCP units (and supporting infrastructure) achieving a net electrical output capacity of more than 350 megawatts (MW; referred to as MWe for electrical output) and up to a likely maximum of 1,380 MWe (with CCP operational) onto the national electricity transmission network.
- 3.7.2 Construction of the Proposed Development could, subject to securing the necessary development consent, start as early as Quarter 4 (Q4) 2026 but construction activities may commence as late as Q4 2031 (depending on market needs and financing).
- 3.7.3 Flexibility has been built into the Proposed Development to allow the latest technology to be utilised at the time of construction and avoid constraining the Proposed Development from being built in a manner that would lead to lower environmental impacts.

## 4. Description of the Proposed Development Site and Order Land

4.1.1 The Proposed Development's Main Development Area is located approximately 0.6 km north-west of Connah's Quay in Flintshire, north-east Wales. The Main Development Area is centred at national grid reference 327347, 371374. The Order Limits for the Proposed Development lie entirely within the FCC administrative area.

4.1.2 The Order Limits, as shown in **Figure 3.1: Order Limits (EN010166/APP/6.3)**, encompass a total area of approximately 105 ha.

4.1.3 Around 86.2 ha of the Order Limits is focussed on the 'Construction and Operation Area', comprising the Main Development Area, construction areas and connection corridors necessary for the construction and operation of the Proposed Development shown in **Figure 3-1: Order Limits (EN010166/APP/6.3)**. A further 18.8 ha of land included for the 'Accommodation Works Areas', comprising areas of works required to facilitate the movement and temporary storage of AIL during construction of the Proposed Development.

4.1.4 The Order Limits include the existing Connah's Quay Power Station site, owned and operated by the Applicant, and adjacent land for the purposes of facilitating connections to the Proposed Development for gas, electricity, water and other necessary infrastructure.

4.1.5 The town of Connah's Quay is located to the south-east of the existing Connah's Quay Power Station and the Main Development Area, immediately beyond the A548 and the North Wales Main Line railway. The area to the south-west of the Main Development Area is mainly used for pastoral agriculture with some arable agriculture while the area to the north-west of the Main Development Area is a nature reserve within several statutory designated sites.

4.1.6 The Order Limits include the following areas:

- The Construction and Operation Area, including:
  - the Main Development Area, which is an area of around 56.5 ha that includes operational parts of the existing Connah's Quay Power Station and agricultural fields. Areas of the Main Development Area would be developed for the proposed CCGT and CCP and used for temporary laydown areas during construction. An existing 400 kilovolt (kV) high-voltage overhead electrical transmission line crosses the Main Development Area. It is bordered generally to the north by the Dee Estuary, to the east by the existing National Grid Electricity Transmission plc (NGET) 400 kV Substation, and to the south by the North Wales Main Line railway;
  - the Repurposed CO<sub>2</sub> Connection Corridor is an area between the south-west corner of the Main Development Area and the north-east corner of the Proposed CO<sub>2</sub> Connection Corridor. It comprises around 4.3 ha and is largely agricultural fields and hedgerows. It follows the route of an existing underground gas pipeline and forms approximately 3 km of an overall 27 km pipeline route between the

existing Connah's Quay Power Station and Point of Ayr Gas Terminal to the north-west;

- the Proposed CO<sub>2</sub> Connection Corridor mirrors the area consented for the Flint AGI and Newbuild CO<sub>2</sub> Pipeline works within the HyNet CO<sub>2</sub> Pipeline Project<sup>3</sup>. It comprises around 6.2 ha within which a new CO<sub>2</sub> export pipeline approximately 422 m in length for the Proposed Development would be constructed linking the Repurposed CO<sub>2</sub> Connection Corridor at one end, with the Flint AGI at the other end. Modifications to the Flint AGI would also take place within this corridor;
- the Water Connection Corridor is an area of around 1.6 ha which includes the existing abstraction and discharge infrastructure for cooling water sourced from the River Dee for the existing Connah's Quay Power Station. It includes both intertidal mudflat and saltmarsh habitats of the Dee Estuary and the River Dee itself. The Proposed Development will utilise the existing Connah's Quay Power Station abstraction and discharge infrastructure for re-use with some refurbishment and additions;
- the Electrical Connection Corridor is an area of around 3.4 ha which includes the existing electrical export transmission cable(s) that interface with the Main Development Area and the existing NGET 400 kV Substation;
- the C&IEA is an approximate 12.6 ha area of vacant land under the Applicant's ownership south-east of the Main Development Area, which currently comprises derelict hardstanding with scrub / grass vegetation, open grassland and small trees. Following use during construction as a laydown area, it may be used for biodiversity mitigation and / or enhancement;
- the Main Development Area Access Works Area comprises the existing Kelsterton Road, including a bridge over the North Wales Main Line railway, and part of a former junction between the A548 and Kelsterton Road. This area comprises around 0.2 ha of existing hardstanding with small areas of roadside, kerbs, trees and grass;
- the Access to C&IEA would be provided during construction to and from the Main Development Area via an existing hard standing internal access road;
- the Alternative Access to Main Development Area is an existing hardstanding road that runs from the B5112 towards the Electrical Connection Corridor beneath the A548 Flintshire Bridge, before intersecting with the Access to C&IEA; and
- the Surface Water Outfall is the area adjacent to the northern extent of the Main Development Area, including and surrounding the existing artificial outfall for surface water drainage (the 'Existing Surface Water Outfall') from the existing Connah's Quay Power Station into the Dee Estuary; and

- The Accommodation Works Areas, including:

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<sup>3</sup> Consented under The HyNet Carbon Dioxide Pipeline Order 2024, <https://www.legislation.gov.uk/ksi/2024/436/contents> (accessed 20 April 2025).

- the A548 from Port of Mostyn to Greenfield follows an existing highway along the A548 between the entrance to the Port of Mostyn and the village of Greenfield and the immediate entrance of the existing Port of Mostyn;
- the Tir Glas Roundabout on the A548 between Greenfield and Whelston;
- the A548 through Flint to Chester Road Roundabout follows an existing highway along the A548 through Flint and includes the Chester Road roundabout;
- the AIL Access comprises a section of the A548 Chester Road adjacent to the Main Development Area Access Works Area and a wooded verge on Kelsterton Road adjacent to the Kelsterton Road / A548 Chester Road;
- the Connah's Quay North Accommodation Works comprises the existing jetty at Connah's Quay North, including marine and terrestrial components, and the access road from North Road/River Road. The marine components comprises a small section the Dee Estuary and existing jetty infrastructure (including a piled concrete retaining wall). The terrestrial component comprises hard standing areas and some but limited areas of vegetation; and
- the North Road to the A548 comprises North Road from the entrance to Connah's Quay North to the A548 Weighbridge Road roundabout.

4.1.7 The maximum area of land required for the construction and operation of the Proposed Development is shown on the **Land Plans (EN010166/APP/2.2)** and **Crown Land Plans (EN010166/APP/2.3)**. The land-take for the Order Limits has been refined as the Proposed Development design has progressed, taking into account environmental and technical factors, and consultation responses.

4.1.8 The Order Land is the land over which compulsory powers are sought, which is described in the **Book of Reference (EN010166/APP/4.1)** and shown on the **Land Plans (EN010166/APP/2.2)** and **Crown Land Plans (EN010166/APP/2.3)**.

4.1.9 Further information about the Proposed Development Site is provided in **ES Chapter 3: Description of the Existing Environment (EN010166/APP/6.2.3)**.

# 5. Compulsory Acquisition Powers

## 5.1 Introduction

5.1.1 Section 120(3) of the 2008 Act provides that a DCO may make provision relating to, or to matters ancillary to, the development for which consent is granted. Section 120(4) states that this includes in particular provision for or relating to any of the matters listed in Part 1 of Schedule 5 to the 2008 Act. Schedule 5 includes the acquisition of land, compulsorily or by agreement, and the creation, suspension or extinguishment of, or interference with, interests in or rights over land, compulsorily or by agreement.

5.1.2 There are conditions that must be met before a DCO may include provision authorising the compulsory acquisition of land, as set out below.

## 5.2 The Conditions to be met

5.2.1 Under section 122 of the 2008 Act, a DCO may only include provision authorising the compulsory acquisition of land if the conditions in sections 122(2) and 122(3) of the 2008 Act are met. The conditions to be met are:

- Section 122(2): the land is required for the development to which the consent relates, is required to facilitate or is incidental to that development or is replacement land which is to be given in exchange for the Order Land under section 131 or section 132 of the 2008 Act (open spaces, common land etc). See Section 6 and Section 7.2 of this Statement.
- Section 122(3): there is a compelling case in the public interest for the land to be acquired compulsorily. See Section 7.1 of this Statement.

5.2.2 In respect of the section 122(2) condition, the CA Guidance (at paragraph 11) states that applicants should be able to demonstrate to the satisfaction of the SoS that the land to be acquired is no more than is reasonably required for the purposes of the development. See Section 6 of this Statement.

5.2.3 In respect of the section 122(3) condition, the CA Guidance (at paragraph 13) states that the SoS will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired. At paragraph 14, the CA Guidance states that, in determining where the balance of public interest lies, the SoS will weigh up the public benefits that a scheme will bring against any private loss to those affected by compulsory acquisition. See Section 7.1 and Section 10.5 of this Statement.

5.2.4 As part of this exercise, paragraphs 8 to 10 of the CA Guidance also set out a number of general considerations that the Applicant must demonstrate to the satisfaction of the SoS when justifying an order authorising compulsory acquisition. These are as follows:

- that all reasonable alternatives to compulsory acquisition (including modifications to the Proposed Development) have been explored - see Section 6.4 of this Statement;
- that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate - see the rest of this Section 5, Section 6 and Section 10 of this Statement;

- that the Applicant has a clear idea of how it intends to use the land which it is proposed to acquire - see Sections 3 and 4 as well as the rest of this Section 5 of this Statement, together with the **Land and Rights Negotiations Tracker (EN010166/APP/4.2)**;
- that there is a reasonable prospect of the requisite funds for the acquisition becoming available - see the **Funding Statement (EN010166/APP/4.4)**; and
- that the purposes for which compulsory acquisition of land powers are included in the consent are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected - see Section 10 of this Statement.

5.2.5 This Statement sets out the factors that the Applicant considers demonstrate that the conditions in section 122 of the 2008 Act, having regard to the CA Guidance, are satisfied.

### 5.3 Scope of the powers sought

5.3.1 The following categories of land powers are included in the **Draft DCO (EN010166/APP/3.1)**:

- All interests in land, including freehold (Article 25 in the **Draft DCO (EN010166/APP/3.1)**) – shown edged red and shaded pink on the **Land Plans (EN010166/APP/2.2)** and **Crown Land Plans (EN010166/APP/2.3)**.
- Permanent acquisition of subsurface (Article 25 in the **Draft DCO (EN010166/APP/3.1)**) – shown edged red and shaded with blue and red hatching on the **Land Plans (EN010166/APP/2.2)** and **Crown Land Plans (EN010166/APP/2.3)**.
- Statutory authority to override easements and other rights (Article 28 in the **Draft DCO (EN010166/APP/3.1)**). This permits the carrying out or use of the authorised development notwithstanding that it involves an interference with easements or rights.
- Permanent acquisition of new rights and imposition of restrictive covenants (Article 27 in the **Draft DCO (EN010166/APP/3.1)**) - shown edged red and shaded blue on the **Land Plans (EN010166/APP/2.2)** and **Crown Land Plans (EN010166/APP/2.3)**. This permits the creation of new rights (including imposing restrictive covenants).
- Extinguishment of rights (Article 30 in the **Draft DCO (EN010166/APP/3.1)**). The Applicant has included powers to ensure that easements and other private rights identified as affecting the land are extinguished, so as to facilitate the construction and operation of the Proposed Development without hindrance. In addition, there may be unknown rights, restrictions, easements or servitudes affecting that land which also need to be extinguished in order to facilitate the Proposed Development.
- All interests in land, including freehold, in respect of subsoil and airspace only (Article 33 in the **Draft DCO (EN010166/APP/3.1)**). This allows the undertaker to acquire rights in the subsoil of, and the airspace over, land only.

- Temporary use of land (Articles 36 and 37 in the **Draft DCO (EN010166/APP/3.1)**). This permits the undertaker to take temporary possession of any part of the Order Land where it has not yet exercised powers of compulsory acquisition.

5.3.2 The areas of land shaded grey on the **Land Plans (EN010166/APP/2.2)** and **Crown Land Plans (EN010166/APP/2.3)** comprise land which is included within the Order limits but which does not form part of the Order Land, as no powers of acquisition or temporary possession are sought over those plots. Whilst the Applicant is not anticipating carrying out any works related to the Proposed Development within these plots, they have been retained within the Order limits because they cover the existing pipeline within the Repurposed CO<sub>2</sub> Corridor, for which the **Draft DCO (EN010166/APP/3.1)** provides powers to use for the transport of CO<sub>2</sub>. The land interests to use this existing pipeline have already been secured in respect of the land shaded grey.<sup>4</sup> As such, the non-inclusion powers of acquisition or temporary possession over these plots is not considered to be an impediment to the delivery of the Proposed Development.

5.3.3 The grey plots are shown on the Land Plans because the plots are retained within the Order limits, as they are required for and will be affected by the Proposed Development (Regulation 5(2)(i)(i) of the APFP Regulations). The details of the relevant owners in the grey plots have been included in the **Book of Reference (EN010166/APP/4.1)** because the plots fall within the Order limits, and it is intended that part of the works may be carried out in that land (Regulation 7 of the APFP Regulations).

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<sup>4</sup> Along the existing pipeline, a land referencing exercise to confirm the land interests that are required for use of the existing pipeline has been undertaken by the Applicant. Where such land interests have already been secured, the land is shaded as grey because no additional land interests are required for the delivery of the Proposed Development. However, where additional land interests have been identified as being needed, the Applicant has included the land rights to use the existing pipeline within the **Land Plans (EN010166/APP/2.2)** and **Draft DCO (EN010166/APP/3.1)**.

## 6. Need for the Compulsory Acquisition of Land and Rights

### 6.1 Purpose of the Compulsory Powers and Status of Negotiations

- 6.1.1 The intended purpose of the land which is subject to the proposed powers of compulsory acquisition is summarised in the **Land and Rights Negotiations Tracker (EN010166/APP/4.2)**.
- 6.1.2 The **Land and Rights Negotiations Tracker (EN010166/APP/4.2)** includes plots in the **Book of Reference (EN010166/APP/4.1)** and land interests where the Applicant has been involved in negotiations to reach voluntary agreement with landowners save for in respect of the subsoil beneath the highway (discussed further in Section 6.2 below). For each third party the Applicant is negotiating with, the **Land and Rights Negotiations Tracker (EN010166/APP/4.2)** describes the party's interest by reference to the Work Nos. set out in Schedule 1 to the **Draft DCO (EN010166/APP/3.1)** and shown on the **Works Plans (EN010166/APP/2.4)**, and by plot number as referenced in the **Book of Reference (EN010166/APP/4.1)** and **Land Plans (EN010166/APP/2.2)** and **Crown Land Plans (EN010166/APP/2.3)**, with plots grouped together for each interested party.
- 6.1.3 The **Land and Rights Negotiations Tracker (EN010166/APP/4.2)**, shows the status of negotiations with the freehold owners of land required for the Proposed Development.
- 6.1.4 For the freehold owners where agreement has not yet been reached, negotiations have been ongoing. As evidenced by the continued negotiations, the parties are willing to enter into the agreements and are currently discussing the remaining commercial points.
- 6.1.5 Details of how the Applicant identified persons with an interest in the affected land are set out in the **Consultation Report (EN010166/APP/5.1)**.

### 6.2 Highway Subsoil

- 6.2.1 The surface of a highway and the first metre or so required to maintain it are deemed to be owned by a highway authority where the road is maintainable at the public expense, as most highways are. Usually, utility companies installing cables and pipes for water, gas, electricity and telecommunications install them within this upper strata forming the highway under statutory licence from the highway authority.
- 6.2.2 The precise extent of the highway authority's vested ownership is not defined by law, and in order to ensure that Applicant is able to lawfully install and operate the Proposed Development at the necessary depth without impediment, including beneath the top strata of land forming the highway (and therefore not part of the highway), the Order provides for the undertaker to acquire rights over the subsoil beneath the highway.
- 6.2.3 In most cases, the owner of the subsoil below the vertical plane of land forming the highway and deemed to be vested in the highway authority is not formally

registered. However, there is a legal presumption that in such cases the owners of the subsoil beneath the highway (and therefore not forming part of the top strata of land, which forms the highway) are the owners of the land or houses on either side of the highway up to the middle of the road (known as the *ad medium filum* rule).

6.2.4 Where rights over the subsoil beneath the highway from owners of that land are required in connection with the Proposed Development, that interest is proposed to be acquired via compulsory acquisition without negotiation or the payment of compensation. This is because the relevant owner has no use or enjoyment of that subsoil land, is not prejudiced by the rights to be granted over that land that are necessary for the Proposed Development, and because the subsoil of a highway is not recognised to have any market value. It would therefore not be a proportionate approach to require the negotiation for the acquisition of such land by agreement from all of the presumed owners.

## 6.3 Need for Compulsory Acquisition Powers

6.3.1 The undertaker requires compulsory acquisition powers to ensure that it is able to acquire all of the land and interests required for the Proposed Development, including the land and interests for which a private agreement has not yet been reached.

6.3.2 It is necessary for the undertaker to be granted the compulsory acquisition powers included in the Order to ensure that all land required for the Proposed Development can be assembled. The undertaker also needs powers to extinguish private rights in the Proposed Development Site to the extent that they would conflict with the Proposed Development.

6.3.3 The undertaker requires powers of compulsory acquisition to ensure that the Proposed Development can be constructed and operated in order to contribute to maintaining a secure and stable supply of electricity and so that the Government's policies in relation to the timely delivery of low carbon infrastructure and achieving the UK's net zero targets are met. The Applicant considers that, in the absence of these powers, there would remain a risk that the Order Land would not be fully assembled and the Proposed Development would not be delivered, meaning that Government policy objectives would not be achieved.

6.3.4 Whilst seeking compulsory acquisition powers, the Applicant will continue to seek to acquire the land and rights and other interests in, on and over the land by agreement. This approach of making the application for powers of compulsory acquisition in the Application for the Order and, in parallel, conducting negotiations to acquire land by agreement, accords with paragraph 26 of the CA Guidance.

6.3.5 The Applicant's justification for seeking compulsory acquisition powers, in accordance with the provisions of the 2008 Act, is to secure land, the rights and other interests in, on and over the land and the temporary use of land required to enable them to construct and operate the Proposed Development within a reasonable commercial timeframe.

6.3.6 The inclusion of powers of compulsory acquisition in the Order is to ensure that this can be achieved. The relevant powers and the land and interests sought are no more than is required to facilitate the Proposed Development, its construction and operation.

## 6.4 Alternatives to Compulsory Acquisition

- 6.4.1 The Applicant has considered all reasonable alternatives to compulsory acquisition. Throughout the pre-application stage, the Applicant took into account land ownership when designing and siting the Proposed Development. It has sought to minimise the need for compulsory acquisition and has attempted to agree private voluntary agreements with the relevant owners.
- 6.4.2 Negotiations with all owners of land within the Order Land are ongoing. The Applicant aims to progress agreements as soon as possible, minimising the amount of land over which powers of compulsory acquisition will need to be exercised. Whilst the Applicant will continue to seek to acquire the remaining land and rights by voluntary agreement, it requires the powers of compulsory acquisition sought in order to provide certainty that it will have all the land required to construct and operate the Proposed Development in order to realise the Proposed Development's significant public benefits.
- 6.4.3 Powers of compulsory acquisition are sought in respect of the Order Land for the reasons that are further described in Section 6.1 above.
- 6.4.4 It is considered that the 'Do Nothing' alternative is not appropriate given the need for the Proposed Development. This is expanded upon in the **Planning Statement (EN010166/APP/7.6)**. The 'Do Nothing' scenario would result in the lack of additional investment in the local economy and the lost opportunity to contribute to meeting the country's net zero targets, commitment to energy security and decarbonisation of the national grid. That would be contrary to NPS EN-1, which explains at paragraph 3.3.62 that the "*Government has concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure*".
- 6.4.5 The alternatives to the location of the Proposed Development are considered in **ES Chapter 6: Alternatives (EN010166/APP/6.2.6)**.
- 6.4.6 None of the alternatives considered would provide the compelling benefits that the Proposed Development would provide, or would involve additional impacts or disadvantages in terms of land take, environmental, technical or other considerations.

## 6.5 Availability of Funds for Compensation

- 6.5.1 The **Funding Statement (EN010166/APP/4.4)** confirms that the undertaker 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, as applicable. The Applicant is not aware of any interests within the Order Land in respect of which a person may be able to make a blight claim but, in the event this did occur, the undertaker has sufficient funds to meet any compensation due.
- 6.5.2 The Applicant therefore considers that the SoS can be satisfied that the requisite funds for payment of compensation will be available at the appropriate time.

# 7. Justification for the Use of Powers of Compulsory Acquisition

## 7.1 The Compelling Case

7.1.1 The **Planning Statement (EN010166/APP/7.6)** that forms part of the Application explains how the Proposed Development will:

- meet an urgent need for new low carbon electricity generation;
- support the decarbonisation of the power sector, by providing the development of a low carbon electricity generating station and supporting the development of a carbon capture and storage network in Wales and the North West of England, helping the UK meet its net zero 2050 target;
- underpin the security of electricity supplies, providing dispatchable, flexible electricity generation when the contribution from renewable sources of energy (e.g. solar and wind) is lower;
- provide economic development that is suitable in its local context and provides local economic and social benefits;
- minimise or mitigate adverse impacts to an acceptable degree; and
- be compliant with NPS EN-1, EN-2, EN-4 and EN-5 and in accordance with other decision-making factors specified in Section 104 of the 2008 Act.

7.1.2 The **Planning Statement (EN010166/APP/7.6)** provides an extensive review of these matters, which are summarised in the following section.

7.1.3 On this basis, the Applicant considers that there is a compelling case in the public interest for compulsory acquisition powers to be granted for the Proposed Development.

## 7.2 The Need for the Proposed Development

7.2.1 The need case for the Proposed Development is explained fully in the **Planning Statement (EN010166/APP/7.6)**. A summary is provided below.

7.2.2 The Proposed Development will support the decarbonisation of UK electricity generation, helping the UK meet its net zero 2050 target and in support of the Government's Clean Power 2030 mission. It will also help underpin the security of electricity supplies, providing dispatchable, low carbon long-duration flexibility to help meet the growing need for electricity and when the contribution from renewable sources of energy (e.g. solar and wind) is reduced.

7.2.3 The need that exists for new low carbon electricity generation, including natural gas-fired plants with carbon capture, is confirmed in the NPSs for Energy. The relevant NPSs are considered below.

### National Policy Statements

7.2.4 The Proposed Development falls within the definition of a NSIP under Sections 14(1)(a), 15(1) and 15(3A) of the 2008 Act, as it is for the construction of an onshore generating station in Wales that does not generate electricity from

wind and has a capacity of more than 350 MW. As such, a DCO application is required to authorise the Proposed Development in accordance with Section 31 of the 2008 Act.

7.2.5 Under the 2008 Act, the policy framework for examining and determining applications for a DCO is provided by NPSs. Section 5 of the 2008 Act allows the SoS to designate NPSs setting out national policy in relation to the types of NSIP listed at Section 14 of the 2008 Act.

7.2.6 The NPSs are the primary policy used by the SoS to examine and determine applications for NSIPs. Where a relevant NPS has effect, Section 104 of the 2008 Act requires the SoS to determine the DCO application in accordance with the relevant NPSs. It also requires the SoS to have regard to any NPS that has effect; appropriate marine policy documents; any local impact report produced by the relevant Local Planning Authority (LPA); any matters prescribed in relation to development of the description to which the application relates (as set out in the Infrastructure Planning (Decisions) Regulations 2010; and any other matters which the SoS thinks are both 'important and relevant' to their decision, unless:

- this would lead to the UK being in breach of its international obligations;
- this would be in breach of any statutory duty that applies to the SoS;
- this would be unlawful by virtue of any enactment;
- the adverse impact of the development would outweigh its benefits; or
- any condition prescribed for deciding an application otherwise than in accordance with an NPS is met.

7.2.7 The relevant NPSs and marine policy documents are considered further below.

7.2.8 NPSs for energy infrastructure were published by the former Conservative UK Government on 22 November 2023 and came into force in England and Wales on 17 January 2024. The following energy NPSs are relevant to the Proposed Development and are considered below:

- Overarching NPS for Energy (EN-1).
- NPS for Natural Gas Electricity Generating Infrastructure (EN-2).
- NPS for Natural Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4).
- NPS for Electricity Networks Infrastructure (EN-5).

7.2.9 The need for projects such as the Proposed Development is confirmed in NPS EN-1. This is considered further below.

7.2.10 The need that exists for new low carbon electricity generation projects, such as the Proposed Development, is confirmed in NPS EN-1.

7.2.11 Section 2.2 of EN-1 confirms the Government's legally binding target of achieving net zero in terms of greenhouse gas emissions by 2050, as enshrined in law by the Climate Change Act 2008 (2050 Target Amendment) Order 2019.

7.2.12 Section 2.3 of EN-1 highlights how critical the provision of new low carbon energy infrastructure will be to the UK achieving net zero. It emphasises that this will require a ‘step change’ approach in the provision of energy infrastructure to be able to meet the Government’s objectives of a secure, reliable and affordable energy supply that supports sustainable economic growth. Paragraph 2.3.4 of EN-1 states:

*“Meeting these objectives necessitates a significant amount of energy infrastructure, both large nationally significant developments and small-scale developments determined at a local level. This includes the infrastructure needed to convert primary sources of energy... into energy carriers (e.g. electricity or hydrogen), and to store and transport primary fuels and energy carriers into and around the country. It also 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.”*

7.2.13 In reference to this need for transformative change to the energy system, paragraph 2.3.6 of EN-1 suggests:

*“... tackling emissions while continuing to ensure secure and reliable supply, and affordable bills for households and businesses. This includes increasing our supply of clean energy from renewables, nuclear and hydrogen manufactured using low carbon processes... and, where we still emit carbon, developing the industry and infrastructure to capture, transport and store it.”*

7.2.14 EN-1 advocates the importance of technologies such as CCS in the decarbonisation of power generation and industrial processes necessary to achieve net zero. Section 2.4 of EN-1 sets out how the Government is developing business models and commercial frameworks to incentivise and support developers to finance the construction and operation of power stations with CCS technologies – power CCS – (paragraph 2.4.5 of EN-1).

7.2.15 Section 2.5 of EN-1 confirms the vital role that energy has in relation to economic prosperity and social wellbeing. Paragraph 2.5.1 of EN-1 states:

*“Given the vital role of energy to economic prosperity and social well-being, it is important that our supplies of energy remain secure, reliable and affordable.”*

7.2.16 Paragraph 2.5.2 of EN-1 highlights how the UK has a “...highly diverse and flexible sources of gas supply and a diverse electricity mix...” that integrates renewable and low carbon energy sources to meet supply and demand. The paragraph further underlines the role that gas-fired electricity generation with CCS/Carbon Capture Utilisation and Storage (CCUS) will have as part of this flexible and diverse energy mix to complement the renewables and nuclear sectors.

7.2.17 Section 2.6 ‘Sustainable development’ (paragraph 2.6.1) states that the Government’s wider objectives for energy infrastructure include contributing to sustainable development and ensuring that our energy infrastructure is safe. Paragraph 2.6.2 of EN-1 states:

*“Sustainable development is relevant not just in terms of addressing climate change, but because the way energy infrastructure is deployed affects the*

*well-being of the environment, society and the economy, for both current and future generations. For example, the availability of appropriate infrastructure supports the efficient working of the market... to ensure competitive prices for consumers. The regulatory framework also encourages the energy industry to protect the more vulnerable.”*

7.2.18 Part 3 of EN-1 explains the urgent need for significant amounts of new large-scale energy infrastructure to meet the UK's energy objectives (e.g. secure, reliable and affordable). Electricity meets a significant proportion of the UK's overall energy needs and reliance on it will increase as the country transitions towards net zero. The UK needs to ensure that there is sufficient electricity to always meet demand; with a margin to accommodate unexpectedly high demand and to mitigate risks such as unexpected plant closures and extreme weather events (paragraph 3.3.1 of EN-1). New electricity infrastructure, including storage, will also have to be built to replace output from power stations that have reached the end of their operational life (paragraph 3.3.3 of EN-1).

7.2.19 Paragraph 3.1.2 of EN-1 makes clear that it will not be possible to develop the necessary amount of energy infrastructure without some significant residual adverse impacts. It goes onto state that:

*“These effects will be minimised by the application of policy set out in Parts 4 and 5 of this NPS.”*

7.2.20 Section 3.2 of EN-1 provides guidance on SoS decision-making and is clear that the role of the planning system is not to deliver specific amounts or to limit any form of energy infrastructure covered by EN-1 (paragraph 3.2.3 of EN-1). Neither is it the role of the planning system to compare the costs of individual developments or technology types (paragraph 3.2.4 of EN-1). This is because of the urgent need for secure, reliable and affordable energy to meet net zero targets. EN-1 recognises that a larger number of consented projects can help deliver an affordable electricity system by driving competition and reducing costs within and between different technology and infrastructure types.

7.2.21 Highlighted in bold in Section 3.2 of EN-1 is confirmation that in determining any application for nationally significant energy infrastructure, the SoS should assume that the need for the project, which is urgent, has been demonstrated (paragraph 3.2.6 of EN-1). The SoS is also required to then give substantial weight to that need (paragraph 3.2.7 of EN-1) and is not required to consider separately the specific contribution of any individual project in satisfying that need (paragraph 3.2.8 of EN-1).

7.2.22 Section 4.2 of EN-1 deals with ‘The critical national priority for low carbon infrastructure’. With respect to this, the Government has concluded (paragraph 4.2.4) that the national need for new low carbon energy infrastructure is so acute that it is a CNP. Paragraph 4.2.5, bullet point one, confirms that for the purposes of CNP policy, low carbon infrastructure includes natural gas fired generation that is carbon capture ready. This means that the Proposed Development, being a low carbon CCGT generating station with CCP, has CNP status (Section 4.2, paragraph 4.2.5, bullet point one) when it comes to SoS decision making and specifically in reference to any residual impacts that remain following application of the mitigation hierarchy (paragraph 4.2.7). Paragraph 3.3.63 of EN-1 states that the Government

strongly supports the delivery of CNP infrastructure and that it should be progressed as quickly as possible. CNP policy is considered further below.

7.2.23 The role of CCGT electricity generation using natural gas equipped with CCS/CCUS is highlighted at paragraph 3.3.44 of EN-1. It states that CCGT generation equipped with CCS/CCUS can reduce emissions by 90% or more compared to unabated gas-fired power stations. It can also provide the necessary flexible generation that is able to ramp up or down to meet changes to electricity demand. Paragraph 3.3.45 goes onto state that to realise the potential of ‘power CCUS’ projects, the Government will implement commercial mechanisms to assist in bringing forward such projects.

7.2.24 Paragraph 3.3.59 confirms that all the electricity generating technologies mentioned in EN-1, including natural gas-fired plants with CCS/CCUS, are urgently needed to meet the Government’s energy objectives by providing security of supply; providing an affordable, reliable system; and ensuring the system is net zero. Paragraph 3.3.61 goes onto state that the need for all these types of infrastructure is established by EN-1 and a combination of many or all of them is urgently required for both energy security and net zero.

7.2.25 Sections 3.4 and 3.5 of EN-1 set out the urgent need for new gas infrastructure with CCS to support low carbon energy generation and its role in delivering the Government’s wider energy objectives (secure, reliable and affordable). Paragraphs 3.4.10 and 3.4.11 state:

*“Where low carbon alternatives can replace unabated natural gas, we will still need new gas infrastructure. Given the changing nature of the energy landscape, we cannot be certain on the precise role of natural gas, or gas infrastructure, in the future.*

*This means retaining the capability for using natural gas for low carbon dispatchable output in power stations equipped with CCS...”*

7.2.26 Part 4 of EN-1 ‘Assessment Principles’ sets out the general policies for the submission and assessment of development consent applications relating to energy infrastructure.

7.2.27 Paragraph 4.1.3 of EN-1 confirms that given the level and urgency of need for infrastructure of the types covered by the NPSs for energy, the SoS will start with a presumption in favour of granting consent to applications for energy NSIPs. That presumption applies unless the provisions of the 2008 Act (EN-1, paragraph 1.1.4) are engaged and any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused.

7.2.28 Paragraph 4.1.5 ‘Weighing impacts and benefits’ states that in considering any proposed development, the SoS should take into account its potential benefits, including its contribution to meeting the need for energy infrastructure, job creation, reduction of geographical disparities, environmental enhancements and any long-term or wider benefits.

7.2.29 In relation to potential adverse impacts, paragraph 4.1.7 clarifies that:

*“Where this NPS or the relevant technology specific NPSs require an applicant to mitigate a particular impact as far as possible, but the Secretary of State considers that there would still be residual adverse effects after the implementation of such mitigation measures, the Secretary of State should weigh those residual effects against the benefits of the proposed*

*development. For projects which qualify as CNP Infrastructure, it is likely that the need case will outweigh the residual effects in all but the most exceptional cases. This presumption, however, does not apply to residual impacts which present unacceptable risk to, or interference with, human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero. Further, the same exception applies to this presumption for residual impacts which present an unacceptable risk to, or unacceptable interference offshore to navigation, or onshore to flood and coastal erosion risk'. [underlining added]*

- 7.2.30 Paragraph 4.2.14 provides further clarification on the application of CNP policy stating that the SoS will continue to consider the benefits and impacts of all CNP infrastructure applications on a case by case basis. The SoS must be satisfied that the applicant's assessment demonstrates that the requirements set out above have been met (e.g. the development meets the requirements of the NPSs and the mitigation hierarchy has been applied). Where the SoS is satisfied that they have been met, CNP policy places a clear presumption in favour of granting consent for such infrastructure even where residual effects remain. Indeed, EN-1 goes onto state (paragraph 4.2.15) that for projects which qualify as CNP infrastructure, where residual non-Habitats Regulations Assessment (HRA) or non-Marine Conservation Zone (MCZ) impacts remain after the mitigation hierarchy has been applied, these residual impacts are unlikely to outweigh the urgent need for this type of infrastructure
- 7.2.31 EN-1 (paragraph 4.2.15) clarifies however that this presumption in favour of consent does not apply to residual effects that present an unacceptable risk to, or unacceptable interference with, human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero. Further, the same exception applies to this presumption for residual impacts which present an unacceptable risk to, or unacceptable interference offshore to navigation, or onshore to flood and coastal erosion risk.
- 7.2.32 Paragraph 4.2.16 continues by stating that the SoS will take as the starting point for decision-making that such infrastructure is to be treated as if it has met any tests which are set out in the NPSs, or any other planning policy, which requires a clear outweighing of harm, exceptionality or very special circumstances.
- 7.2.33 Paragraph 4.2.17 of EN-1 states that the SoS will take as a starting point that CNP infrastructure will meet a number of tests, including in relation to development within or outside SSSIs, which is of relevance to the Proposed Development given its potential effects on Connah's Quay Ponds and Woodland SSSI. In the case of such sites, EN-1 states that the SoS's starting point will be that the benefits (including) need of the development in the location proposed outweigh both the likely impact on features of the site that make it an SSSI, and any broader impacts on the national network of SSSIs.
- 7.2.34 As is demonstrated within the **Planning Statement (EN010166/APP/7.6)** that the Proposed Development meets the requirements of the relevant NPSs and that after the application of the mitigation hierarchy, its benefits outweigh its limited adverse residual effects as assessed in the ES, (even before the application of CNP policy), while it does not engage any of the matters set out in paragraph 4.2.15 of EN-1 where the presumption in favour of consent does not apply.

7.2.35 Part 5 of EN-1 considers the ‘generic impacts’ that arise from the development of all of the types of energy infrastructure covered by the energy NPSs (such as landscape and visual impacts) or arise in similar ways from the development of energy infrastructure covered in at least two of the technology specific NPSs. Impacts which are limited to one particular technology are only covered in the relevant technology specific NPS.

7.2.36 NPS EN-1 therefore confirms that there is a clear and compelling national need for the Proposed Development. That need is not open to debate or interpretation. Indeed, the Proposed Development is a critical national priority.

7.2.37 NPS EN-2 covers onshore natural gas fired electricity generating infrastructure. Paragraph 1.6.2 states that natural gas fired generating stations can be configured to be Carbon Capture Ready (CCR) and/or have CCS technology applied. EN-2 goes onto state (paragraph 1.6.4) that (as stated in Section 4.2 of EN-1) to support the urgent need for new low carbon infrastructure, natural gas fired generation which is carbon capture ready is considered to be CNP infrastructure.

7.2.38 Part 2 ‘Assessment and technology-specific information’ of EN-2 sets out policy on the factors influencing site selection for gas fired generating stations; technical considerations; and impacts, including air quality and greenhouse gas emissions; landscape and visual impacts; noise and vibration; and water quality and resources. Section 2.5 deals with the mitigation of the impacts of such generating stations. Notably, in relation to landscape and visual impacts, EN-2 (paragraph 2.5.3) recognises that, notwithstanding the need for careful design and mitigation *“It is not possible to eliminate the visual and landscape impacts associated with a natural gas electricity generating station.”* It also recognises (paragraph 2.5.11) that noise from apparatus external to the main plant may be unavoidable.

7.2.39 EN-4 is relevant to the Proposed Development as natural gas will be used as the fuel for the operation of the low carbon CCGT Generating Station and the Proposed Development includes a high pressure gas supply pipeline for the transport of natural gas to the CCGT Generating Station from the existing natural gas reception facility (Work No. 2(a)). The natural gas supply pipeline is associated development as defined by Section 115 of the 2008 Act.

7.2.40 Sections 2.20 to 2.23 of Part 2 of EN-4 deal specifically with natural gas pipelines, including site selection and design, pipeline safety, and the mitigation of their environmental impacts. Key technology specific considerations for gas pipelines include proximity to sensitive land uses (e.g. residential development and schools) when planning routes; pipeline safety; noise and vibration; biodiversity; landscape and visual; water quality and resources; and soils and geology.

7.2.41 EN-5 is also relevant to the Proposed Development as it includes the continuation of the electrical connection between the MDA and the existing NGET 400 kilovolt kV Substation (Work No. 6). This is for the export of electricity. As with the natural gas supply pipeline, the electrical connection is associated development.

7.2.42 Part 2 of EN-5 deals with assessment and technology-specific information relating to electrical grid connection infrastructure. This includes factors influencing site selection, general assessment principles for electricity networks, climate change adaptation and consideration of good design. Part

2 also identifies a number of potential impacts for consideration, including biodiversity and geological conversation, landscape and visual, noise and vibration and electric and magnetic fields.

## Other matters that are important and relevant

7.2.43 In determining applications for NSIPs, the SoS may have regard to any other matters he or she believes to be “important and relevant”. Such matters could include government energy and climate change policy.

7.2.44 The UK was the first major economy to create a legally binding target to bring greenhouse gas emissions to net zero through the Climate Change Act 2008 (2050 Target Amendment) Order 2019 (the Target Amendment Order). This target was set considering the latest scientific evidence and was recommended by the CCC, the UK’s independent climate advisory body.

7.2.45 Since the introduction of the Target Amendment Order the Government has introduced a range of policies aimed at reducing greenhouse gas emissions which cause climate change. A summary of the key policy documents of most relevance to the Proposed Development is provided below.

- The Ten Point Plan for a Green Industrial Revolution – Building back better, supporting green jobs, and accelerating our path to net zero’ was published on 18 November 2020 and identified the ambition to capture 10 million tonnes (Mt) of CO<sub>2</sub> per year by 2030 and the UK Government’s commitment to invest up to £1 billion to support the establishment of CCUS in four industrial clusters including Wales.
- The Energy White Paper (EWP) Powering our Net Zero Future, was presented to Parliament in December 2020. Chapter 2 ‘Power’ of the EWP set out how it is proposed to decarbonise electricity to enable the transition away from fossil fuels and decarbonise the economy cost-effectively by 2050, which included natural gas-fired generation with CCS/CCUS.
- The Net Zero Strategy: Build Back Greener, published in October 2021 (and updated in April 2022) expanded on key commitments in the Ten Point Plan and the EWP. It stated that the power system will consist of abundant, cheap renewables, cutting edge new nuclear power stations, underpinned by flexibility including storage, gas with CCS and hydrogen (page 19).
- The British Energy Security Strategy Policy Paper, published in April 2022, reiterated the Government’s commitment to invest £1 billion in CCUS technology, helping to decarbonise our industrial clusters.
- The Powering Up Britain Policy Paper, published in March 2023, was accompanied by the ‘Energy Security Plan’ and its ‘Net Zero Growth Plan’. These three documents provide details of the Government’s measures to increase domestic energy production, resilience in energy supply and achieve net zero.
- The Energy Security Plan, published in March 2023, signaled continued support for the CCUS industry; most notably the announcement of eight Track-1 projects across the hydrogen, power, industry, and waste sectors.

7.2.46 One of the Track 1 clusters supported by Government is HyNet (North West England and North West Wales), which the Proposed Development will connect into. The connection into the HyNet CO<sub>2</sub> Pipeline Project, which was

granted development consent in March 2024, would enable the captured CO<sub>2</sub> from the CCGT Generating Station to be transported to permanent offshore storage facilities in repurposed depleted offshore gas fields in Liverpool Bay.

7.2.47 Most recently, in December 2024 the Government published its 'Clean Power 2030 Action Plan: A new era of clean electricity'. The summary to the Action Plan (page 10) states that it is aimed at delivering a new era of clean energy independence and tackling three major challenges:

- the need for a secure and affordable energy supply;
- the creation of essential new energy industries, supported by skilled workers in their thousands; and
- and the need to reduce greenhouse gas emissions and limit our contribution to the damaging effects of climate change.

7.2.48 It goes onto state (page 11) that successful delivery will require rapid deployment of new clean energy capacity across the whole of the UK, including significant amounts of wind and solar power, complemented by flexible capacity, including gas fired generation with carbon capture.

7.2.49 A key theme of the Action Plan is ensuring energy security. This requires flexible capacity to ensure we can deliver clean power during extended periods of low renewables output (pages 23 and 24). The Action Plan sets out a pathway for the deployment of low carbon, flexible capacity technologies such as power CCUS (gas fired generation with carbon capture) working alongside technologies such as nuclear generation, to provide 24/7 reliable power. The importance of gas fired generation with carbon capture in helping to maintain security of supply within the context of what a clean power system could look like in 2030 is recognised at page 29.

7.2.50 The Action Plan also considers long-duration flexibility from page 108 onwards. It recognises that such flexibility can add significant value to the energy system and provide a secure supply of electricity during extended periods of low renewables output. It highlights that there are a number of innovative low carbon technologies such as power CCUS capable of replicating the role of unabated gas. The Action Plan estimates that 40 to 50 gigawatts of dispatchable and long-duration flexible capacity could be needed by 2030 to deliver a resilient clean power system.

7.2.51 Page 111 confirms that power CCUS presents a great opportunity for low carbon long-duration flexibility and can provide non-weather-dependent, dispatchable low carbon generation that will support a renewables-based 2030 system. It goes onto state that a power CCUS business model, known as the Dispatchable Power Agreement (DPA), has been designed to ensure that power CCUS plays a valuable role, dispatching behind renewables, but ahead of unabated gas generation.

7.2.52 The Proposed Development is a power CCUS project and will therefore support the Government's Clean Power 2030 mission by providing low carbon long-duration flexibility that will provide security of supply and support a renewables-based 2030 energy system.

7.2.53 The Government energy and climate change policy considered above, further underlines the compelling need that exists for the Proposed Development.

## Economic and Social Benefits

7.2.54 The Proposed Development would have a number of very clear and significant benefits, which can be summarised as follows:

- EN-1, Part 3 confirms the urgent need that exists for significant amounts of new large-scale energy infrastructure to meet the Government's objectives of secure, reliable and affordable energy supplies. This includes the need for low carbon energy infrastructure, including natural gas fired generation with carbon capture (EN-1, paragraph 4.2.5, bullet point one). The Government has concluded that urgency of the need for low carbon infrastructure is so acute that it is a CNP (EN-1, paragraph 4.2.4) and the delivery of such CNP infrastructure should be progressed as quickly as possible (paragraph 3.3.63). The clear need that exists for low carbon infrastructure, such as the Proposed Development, is set out in Sections 3 and 4 of the **Planning Statement (EN010166/APP/7.6)** with reference to EN-1 and recent UK Government energy and climate change policy. A clear benefit of the Proposed Development is that it would make a major contribution to meeting the need for new energy infrastructure identified in EN-1 by delivering up to a likely maximum of 1,380 MW of flexible, low carbon electricity generation at the Proposed Development Site. The urgent need that exists for low carbon infrastructure is not open to debate or interpretation and the contribution that would be made by the Proposed Development to meeting that need should be afforded very substantial weight in the SoS's decision-making on the Application (EN-1, paragraphs 3.2.6 and 3.2.7).
- UK Government energy and climate change legislation and policy is a matter that is both important and relevant to SoS decision making on the Application. A number of important energy and climate change policy documents have been published since 2020, including most recently the new Labour Government's Clean Power 2030 Action Plan. These policy documents provide further support to the urgent need for new energy infrastructure, including gas fired power stations that are equipped with carbon capture (power CCS/CCUS) in order to provide security of supply, add resilience to the energy network, support the deployment of renewables (which are intermittent in nature) and ultimately support the Government's Clean Power 2030 Action Plan and the transition to net zero by 2050. The Proposed Development, which is a power CCS/CCUS project, is clearly consistent with the key objectives of UK energy and climate change policy. The Proposed Development would deliver low carbon long duration flexibility, providing security of electricity supply and has the potential to be deployed as early as 2030 thereby supporting the Government's Clean Energy 2030 mission of a renewables based energy system and the transition to net zero. The contribution that the Proposed Development would make to the delivery of important energy and climate change policy objectives should therefore also be afforded very substantial weight.
- The Proposed Development would connect with one of the Government's selected CCS/CCUS clusters, the HyNet Cluster, with the captured CO<sub>2</sub> from the CCGT Generating Station being transported via the HyNet CO<sub>2</sub> Pipeline to permanent offshore storage facilities in Liverpool Bay. The Proposed Development would therefore act as an important enabler in the

development of the HyNet Cluster in line with the Government's objectives of decarbonising the UK's industrial and power generation sectors.

- The Proposed Development Site has excellent proximity to the HyNet Cluster and its associated CO<sub>2</sub> transport infrastructure minimising the extent of CO<sub>2</sub> connection infrastructure needed and any associated effects. The majority of the Proposed Development Site is within the ownership or control of the Applicant while the Proposed Development would make use of brownfield land within the operational boundary of the existing Connah's Quay Power Station. The Proposed Development would also be able to make use of the existing electricity grid, natural gas supply and water supply infrastructure at the existing Connah's Quay Power Station, thereby minimising the need for new connections and third party land. The location of the Proposed Development Site also affords important efficiencies in terms of the operation and maintenance of the Proposed Development and the potential to draw upon the existing skilled workforce.
- The Proposed Development would have benefits for the national and local economy in terms of employment (direct and indirect/induced) and supply chain opportunities. It is estimated that the Proposed Development would require an average of 608 gross direct full-time employment (FTE) construction jobs on-site per day during a simultaneous phase construction period, with a peak workforce of 1,600. Furthermore, it is estimated that 45% of construction staff could be sourced from within a 60-minute drive time area of the Proposed Development Site, meaning that around 274 jobs would be created for residents within this drive-time area during construction. In addition to the direct employment generated by the construction of the Proposed Development, there would be an increase in local employment arising from indirect and induced effects of the construction activity. Applying a medium multiplier effect of 1.5 indicates that around 103 FTE indirect and induced jobs would be generated per annum within the 60-minute drive time. With regard to operation, it is estimated that up to 66 FTE permanent jobs would be generated, of which 30 are expected to be filled by people from the local area.
- In terms of Gross Value Added (GVA) it is estimated that the construction workforce of the Proposed Development would directly contribute £33.24m to the national economy during the construction phase of which £14.98m would likely be within the 60-minute drive time.
- The Applicant would pursue an arrangement with training provider TTE Technical UK or another suitable training provider, for apprentices to work on the Proposed Development. The current expectation is for one apprenticeship per year during the construction phase, equating to a maximum of 9 apprenticeships. The Applicant is in the early stages of working with Coleg Cambria, Bangor University, and Wrexham University to align courses at nearby education facilities with skills required for the Proposed Development and other regional projects. Though no formal commitments have been reached at this stage, suitable arrangements would be in place for the construction and operation phases.
- **ES Chapter 21: Human Health (EN010166/APP/6.2.21)** has assessed the Proposed Development as having a Moderate beneficial (significant) effect in terms of climate change mitigation and adaptation for the vulnerable sub-population within the study area (e.g. children under 16 years who are over-

represented within the study area) as a result of reduced exposure to GHG emissions.

- The Proposed Development would achieve Net Benefit for Biodiversity NBB. Some NBB would be secured within the MDA, with further NBB being provided off-site at Gronant Fields, Prestatyn. The **Outline Landscape Ecological Management Plan (LEMP) (EN010166/APP/6.9)** sets out measures proposed to minimise the effects of the Proposed Development on landscape and biodiversity features, and to enhance the biodiversity and landscape value of the Construction and Operation Area. In addition, the **Green Infrastructure Statement (EN010166/APP/6.11)** sets out measures to enhance green infrastructure. A final LEMP (to be in general accordance with the **Outline LEMP (EN010166/APP/6.9)**) is secured by Requirement 10 of the **Draft DCO (EN010166/APP/3.1)**. Furthermore, Requirement 18 'Net benefit for biodiversity' of the Draft DCO secures a scheme for the provision of NBB. This must be submitted for approval prior to the commencement of the Proposed Development and be in general accordance with the **Outline LEMP (EN010166/APP/6.9)** and **Off-site Net Benefit for Biodiversity and Green Infrastructure Strategy (EN010166/APP/6.14)**.

7.2.55 For the above reasons, there is a compelling need for the Proposed Development.

## 8. Special Considerations

### 8.1 Crown land

8.1.1 There are Crown interests within the Order Land in the following plots:

- Plots 7/3, 7/4 and 7/5 are described in the **Book of Reference (EN010166/APP/4.1)** as being permanently acquired. The Ministry of Defence has a category 2 interest in these plots, and these plots are therefore 'Crown Land'. The plots are shown hatched on the **Crown Land Plans (EN010166/APP/2.3)**.
- Plot 7/6 is described in the **Book of Reference (EN010166/APP/4.1)** as being no acquisition. The Ministry of Defence has a category 2 interest in this plot. Whilst no powers of acquisition are sought over this land, other powers of the Order are sought over this land and so these plots are therefore 'Crown Land'. The plots are shown hatched on the **Crown Land Plans (EN010166/APP/2.3)**.
- Plots 8/12, 8/10, 9/23, 8/11 are described in the **Book of Reference (EN010166/APP/4.1)** as being permanently acquired. The King's Most Excellent Majesty in Right of His Crown owns these plots as a category 1 landowner, and these plots are therefore 'Crown Land'. The plots are shown hatched on the **Crown Land Plans (EN010166/APP/2.3)**.
- Plots 5/8, 5/10, 5/9, 7/1 are described in the **Book of Reference (EN010166/APP/4.1)** as being temporarily possessed. The King's Most Excellent Majesty in Right of His Crown owns these plots as a category 1 landowner, and these plots are therefore 'Crown Land'. The plots are shown hatched on the **Crown Land Plans (EN010166/APP/2.3)**.
- Plots 8/18, 8/17, 8/16, 9/1, 9/14, 9/5, 9/2, 9/10, 9/3, 9/12, 9/17, 8/5, 8/15, 8/13, 9/7, 9/4 are described in the **Book of Reference (EN010166/APP/4.1)** as being permanent rights acquisition. The King's Most Excellent Majesty in Right of His Crown owns these plots as a category 1 landowner, and these plots are therefore 'Crown Land'. The plots are shown hatched on the **Crown Land Plans (EN010166/APP/2.3)**.
- Plots 8/1, 6/19, 6/22, 8/2 are described in the **Book of Reference (EN010166/APP/4.1)** as being no acquisition. The King's Most Excellent Majesty in Right of His Crown owns these plots as a category 1 landowner. Whilst no powers of acquisition are sought over this land, other powers of the Order are sought over this land and so these plots are therefore 'Crown Land'. The plots are shown hatched on the **Crown Land Plans (EN010166/APP/2.3)**.
- Plots 8/12, 8/10, 9/23, 8/11 are described in the **Book of Reference (EN010166/APP/4.1)** as being permanent acquisition. The King's Most Excellent Majesty in Right of His Crown has a category 2 interest in these plots, and these plots are therefore 'Crown Land'. The plots are shown hatched on the **Crown Land Plans (EN010166/APP/2.3)**.
- Plots 8/18, 8/17, 8/16, 9/1, 9/14, 9/5, 9/2, 9/10, 9/3, 9/12, 9/17, 8/5, 8/15, 8/13, 9/7, 9/4 are described in the **Book of Reference (EN010166/APP/4.1)** as being permanent rights acquisition. The King's

Most Excellent Majesty in Right of His Crown has a category 2 interest in these plots, and these plots are therefore 'Crown Land'. The plots are shown hatched on the **Crown Land Plans (EN010166/APP/2.3)**.

- Plots 8/1, 6/19, 6/22, 8/2 are described in the **Book of Reference (EN010166/APP/4.1)** as being no acquisition. The King's Most Excellent Majesty in Right of His Crown has a category 2 interest in these plots. Whilst no powers of acquisition are sought over this land, other powers of the Order are sought over this land and so these plots are therefore 'Crown Land'. The plots are shown hatched on the **Crown Land Plans (EN010166/APP/2.3)**.
- Plot 6/3 is described in the **Book of Reference (EN010166/APP/4.1)** as being temporarily possessed. The National Assembly for Wales has a Freehold interest in this plot, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (EN010166/APP/2.3)**.

8.1.2 The plots listed above cover the following areas of the Order limits:

- Main Development Area;
- Proposed CO<sub>2</sub> Connection Corridor;
- Repurposed CO<sub>2</sub> Connection Corridor;
- Water Connection Corridor;
- C&IEA;
- Alternative Access to Main Development Area and Access to C&IEA;
- Electrical Connection Corridor; and
- Access to Main Development Area.

8.1.3 The **Draft DCO (EN010166/APP/3.1)** includes an article providing that the Order does not prejudicially affect any estate (etc.) of the Crown, and that the undertaker may not enter on or take any Crown land other than with the consent of the appropriate authority (Article 43).

8.1.4 The Applicant has sought engagement with relevant crown bodies in order to secure the rights and access necessary to carry out the relevant parts of the authorised development and to obtain the consent of the Crown to the inclusion of provisions applying in relation to Crown land (as required by section 135 of the 2008 Act).

8.1.5 Further detail is provided in the **Land and Rights Negotiations Tracker (EN010166/APP/4.2)**, which explains that the Applicant has been in correspondence in relation to this land. The Applicant will continue to seek the Crown's consent following submission of the Application.

## 8.2 Statutory Undertakers' Land

### Powers conferred by the Order

8.2.1 Article 38 of the **Draft DCO (EN010166/APP/3.1)** gives the undertaker the power within the Order Land to: (a) acquire compulsorily land belonging to statutory undertakers; (b) acquire compulsorily existing rights, create and acquire new rights and impose restrictive covenants over the land belonging

to statutory undertakers; (c) extinguish or suspend the rights of, remove, alter, renew, relocate or reposition the apparatus belonging to statutory undertakers; and (d) construct the authorised development in such a way as to interfere with any highway or cross underneath or over apparatus belonging to statutory undertakers and other like bodies.

8.2.2 That Article is subject to the protective provisions included at Schedule 13 of the **Draft DCO (EN010166/APP/3.1)**.

### **8.3 Section 127 2008 Act**

8.3.1 Section 127(1) of the 2008 Act states that this section applies in relation to statutory undertakers' land if: (a) the land has been acquired by statutory undertakers for the purposes of their undertaking; (b) a representation has been made about a DCO application before the end of the Examination and that representation has not been withdrawn; and (c) as a result of the representation the SoS is satisfied that the land is used for the purposes of carrying on the statutory undertakers' undertaking or an interest in the land is held for those purposes.

8.3.2 If this applies:

- Section 127(2) of the 2008 Act states that a DCO may include provision authorising the compulsory acquisition of statutory undertakers' land only to the extent that the SoS is satisfied that: (a) the land can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or (b) if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertaker without serious detriment to the carrying on of the undertaking.
- Section 127(5) of the 2008 Act states that a DCO may include provision authorising the compulsory acquisition of a right over statutory undertakers' land by the creation of a new right over land only to the extent that the SoS is satisfied that: (a) the right can be purchased without serious detriment to the carrying on of the undertaking; or (b) any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertaker by the use of other land belonging to or available for acquisition by them.

8.3.3 The statutory undertakers with land or apparatus within the Order Land are listed in the **Land and Rights Negotiations Tracker (EN010166/APP/4.2)** along with the status of negotiations on protective provisions, as at Deadline 1.

8.3.4 As set out in the **Land and Rights Negotiations Tracker (EN010166/APP/4.2)**, the protective provisions are in the process of being, agreed with the relevant statutory undertakers, and will accordingly set out constraints on the exercise of the powers in the Order, with a view to safeguarding the statutory undertakers' interests, whilst enabling the Proposed Development to proceed.

8.3.5 Accordingly, the Applicant considers that the statutory undertakers' land or right over statutory undertakers' land can be purchased without serious detriment to the carrying on of the undertaking. The tests set out in sections 127(2) and 127(5) of the 2008 Act are therefore satisfied.

## 8.4 Section 138 2008 Act

8.4.1 Section 138(1) of the 2008 Act states that this section applies if a DCO authorises the acquisition of land (compulsorily or by agreement) and:

- (a) there subsists over the land a 'relevant right' - meaning a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, which: (i) is vested in or belongs to statutory undertakers for the purpose of the carrying on of their undertaking; or (ii) is conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network; or
- (b) there is on, under or over the land 'relevant apparatus' – meaning: (i) apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking; or (ii) electronic communications apparatus kept installed for the purposes of an electronic communications code network.

8.4.2 If this applies, section 138(4) of the 2008 Act states that the Order may include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, only if the SoS is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.

8.4.3 As set out in the **Land and Rights Negotiations Tracker (EN010166/APP/4.2)** and the **Book of Reference (EN010166/APP/4.1)**, the extinguishment of any relevant right or the removal of any relevant apparatus is necessary for the purpose of carrying out the Proposed Development to which the Order will relate. The test set out in section 138(4) of the 2008 Act is therefore satisfied.

8.4.4 There are no other relevant special considerations in respect of the Order Land.

# 9. No Impediments

## 9.1 Other planning permissions, consents and orders

- 9.1.1 The undertaker requires various other consents, as well as a DCO, in order to construct and operate the Proposed Development. The **Consents and Agreement Position Statement (EN010166/APP/3.3)** sets out the additional consents required and when they will be applied for.
- 9.1.2 The Applicant is not aware of any reason why these and other consents required will not be granted and therefore does not consider that they represent an impediment to the Proposed Development proceeding.

# 10. Human Rights

## 10.1 Introduction

- 10.1.1 The CA Guidance states that the SoS must be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected (paragraph 10).
- 10.1.2 The Human Rights Act 1998 (Ref. 1.5) incorporated the Convention (Ref. 1.6) into domestic law. The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.
- 10.1.3 The following Articles of the Convention are relevant to the SoS's decision.

## 10.2 Article 1 of the First Protocol to the Convention

- 10.2.1 This protects the right of everyone to peaceful enjoyment of possessions and provides that no one can be deprived of their possessions except in the public interest and subject to the relevant national and international laws and principles or to secure the payment of taxes or other contributions or penalties.
- 10.2.2 The Order has the potential to affect the Article 1 rights of those whose property is to be compulsorily acquired or temporarily possessed, and whose peaceful enjoyment of their property is proposed to be interfered with.
- 10.2.3 In pursuing the Application, the Applicant has carefully considered the balance to be struck between individual rights and the wider public interest. The Applicant considers that there would be significant public benefits arising from the Proposed Development, as set out in previous sections of this Statement and in the **Planning Statement (EN010166/APP/7.6)**. Those benefits can only be realised if the Order includes compulsory acquisition powers.
- 10.2.4 The Applicant considers that the significant public benefits of the Proposed Development demonstrably outweigh the effects on persons whose peaceful enjoyment of their property is proposed to be interfered with as a result of the Proposed Development.

## 10.3 Article 6

- 10.3.1 Article 6 entitles those affected by powers sought for a project to a fair and public hearing of any relevant objection they may have to the granting of those powers. This includes property rights and can include opportunities to be heard in the consultation process.
- 10.3.2 Prior to submission of the Application, the Applicant undertook extensive consultation on the Proposed Development, including with those persons who would be affected by the powers sought for the Proposed Development. As set out in the **Consultation Report (EN010166/APP/5.1)**, in accordance with Part 5 of the 2008 Act, the Applicant consulted persons who fell within one or more of the categories listed in section 44 of the 2008 Act. This includes any: persons with an interest in the Order Land; persons who have the power to sell and convey or release the Order Land; and those who would or might be entitled to make a claim under section 10 of the Compulsory Purchase Act 1965 (Ref. 1.7) in respect of injurious affection, under Part 1 of the Land

Compensation Act 1973 (Ref. 1.8) in respect of depreciation of land value by physical factors or under section 152(3) of the 2008 Act in respect of compensation where there is no right to claim in nuisance. These persons were given a fair opportunity to submit responses to the consultation, and the Applicant had regard to all relevant responses.

- 10.3.3 In addition to the consultation described above, all the known owners and occupiers of land within the Order Land have been contacted regarding the proposals for the Proposed Development by the Applicant.
- 10.3.4 Furthermore, following acceptance of the Application, representations can be made by way of relevant representations in respect of the Application in response to the notice that the Applicant is obliged to give under section 56 of the 2008 Act and any written representations procedure that the Examining Authority decides to adopt in connection with the Application. Section 92 of the 2008 Act provides that, where a DCO application includes a compulsory acquisition request, affected persons have an opportunity to request that a compulsory acquisition hearing be held and to make oral representations about the compulsory acquisition request at such hearing.
- 10.3.5 Should the SoS decide to make the Order, any person aggrieved by that decision may challenge it in the High Court if they consider that the grounds for doing so are made out pursuant to section 118 of the 2008 Act.
- 10.3.6 In relation to matters of compensation for land to be acquired, affected persons have the right to apply to the Upper Tribunal (Lands Chamber) to determine the compensation payable.

## 10.4 Article 8

- 10.4.1 This protects private and family life, home and correspondence. 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.
- 10.4.2 In relation to Article 8, the Order Land does not include, and the Proposed Development does not require, the acquisition of any residential dwellinghouses. Consequently, as dwellinghouses will not be directly affected, it is not anticipated that the Convention rights protected by Article 8 will be engaged. In the event that such rights were to be engaged, such interference would be justifiable on the basis that it would be lawful and in the public interest, as set out below.

## 10.5 Overview

- 10.5.1 The inclusion of compulsory acquisition powers within the Order is in accordance with law. As explained in Section 5.1 of this Statement, section 120(3) of the 2008 Act provides that a DCO may make provision relating to, or to matters ancillary to, the development for which consent is granted. Section 120(4) states that this includes in particular provision for or relating to any of the matters listed in Part 1 of Schedule 5 to the 2008 Act. Schedule 5 to the 2008 Act includes the acquisition of land, compulsorily or by agreement, and the creation, suspension or extinguishment of, or interference with, interests in or rights over land, compulsorily or by agreement. There are conditions that must be met before a DCO may include provision authorising

the compulsory acquisition of land. As set out in the preceding sections of this Statement, those conditions are all satisfied.

- 10.5.2 The inclusion of compulsory acquisition powers within the Order is proportionate. The proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary. As set out in the **Land and Rights Negotiations Tracker (EN010166/APP/4.2)** and the **Book of Reference (EN010166/APP/4.1)**, the Applicant has a clear idea of how it intends to use the land which it is proposed to acquire and that land is no more than is reasonably required for the purposes of the Proposed Development.
- 10.5.3 The inclusion of compulsory acquisition powers within the Order is justified in the public interest. The Applicant considers that there is a compelling case in the public interest for the exercise of the powers of compulsory acquisition, see Section 7.1 of this Statement.
- 10.5.4 Appropriate compensation will be available to those entitled to claim it under the relevant provisions of the national Compensation Code. All of those whose Convention rights would be affected by the Order will have an opportunity to object to the grant of compulsory acquisition powers in the Order, and to have their objection considered at a fair and public hearing.
- 10.5.5 For the above reasons, any interference with the Convention rights of those whose interests are affected by the inclusion in the Order of powers of compulsory acquisition is proportionate and legitimate and is in accordance with national and European law. For the reasons set out in this Statement, the Applicant considers that there is a compelling case in the public interest for the exercise of such powers of compulsory acquisition.

# 11. Conclusion

- 11.1.1 The Applicant submits, for the reasons explained in this Statement, that the inclusion of powers of compulsory acquisition in the Order for the purposes of the Proposed Development meets the conditions of section 122 of the 2008 Act, as well as the considerations in the CA Guidance.
- 11.1.2 The acquisition of land and rights and the temporary use of land, together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights, is required to facilitate or is incidental to the Proposed Development. Furthermore, the land identified to be subject to compulsory acquisition is no more than is reasonably necessary for that purpose and is proportionate, as is shown in the **Draft DCO (EN010166/APP/3.1)**, the **Works Plans (EN010166/APP/2.4)**, this Statement and in other documents accompanying the Application.
- 11.1.3 The need for the Proposed Development, suitability of the Proposed Development Site and the support for such projects is clearly set out in this Statement. It is demonstrated that there is a compelling case in the public interest for the land to be acquired compulsorily.
- 11.1.4 Powers of compulsory acquisition are required to ensure that the undertaker is able to acquire the land and interests required to deliver the Proposed Development.
- 11.1.5 All reasonable alternatives to compulsory acquisition have been explored. Given the national and local need for the Proposed Development and the support for it found in policy, as well as the suitability of the Order Land (for the reasons outlined above), compulsory acquisition of the land and rights and the temporary use of land, together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights, is justified.
- 11.1.6 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 is necessary and proportionate to that purpose. The Applicant considers that the substantial public benefits to be derived from the proposed compulsory acquisition would demonstrably outweigh the private loss that would be suffered by those whose land or interests are to be acquired, and therefore justifies interfering with that land or rights.
- 11.1.7 The Applicant has set out clear and specific proposals for how the Proposed Development Site will be used.
- 11.1.8 The requisite funds are available to meet any costs of land acquisition and compensation payable as a result of the use of powers of compulsory acquisition.

# 12. Further Information

## 12.1 Negotiations

12.1.1 Owners and occupiers of property affected by the Order who wish to negotiate a sale or discuss matters of compensation should contact the Applicant by email at [info@connahsquaylcp.co.uk](mailto:info@connahsquaylcp.co.uk).

## 12.2 Compensation

12.2.1 Provision is made by statute for compensation for the compulsory acquisition of land.

12.2.2 Information about compulsory purchase and compensation may be downloaded free of charge, from: <https://www.gov.uk/guidance/compulsory-purchase-and-compensation-guide-1-procedure> and [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/236454/Planning Act 2008 - Guidance related to procedures for the compulsory acquisition of land.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/236454/Planning Act 2008 - Guidance related to procedures for the compulsory acquisition of land.pdf).

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- 1.4 Planning Inspectorate's Advice Note Nine: Rochdale Envelope (republished in July 2018, version 3). Accessed online on 2 February 2024. Available at:  
<https://www.gov.uk/government/publications/nationally-significant-infrastructure-projects-advice-note-nine-rochdale-envelope> (accessed 1 May 2025)
- 1.5 Parliament of the United Kingdom, Human Rights Act 1998 (1998)
- 1.6 Council of Europe, European Convention on Human Rights (1950)
- 1.7 Parliament of the United Kingdom, Compulsory Purchase Act 1965 (1965)
- 1.8 Parliament of the United Kingdom, Land Compensation Act 1973 (1973)
- 1.9 Parliament of the United Kingdom, Construction (Design and Management) Regulations 2015 (2015)

