



# HyNet CCUS Pre-FEED

Key Knowledge Deliverable

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## WP7: Consenting and Land Strategy

# EXECUTIVE SUMMARY

The Consenting and Land Strategy was generated as part of the Preliminary Front End Engineering and Design (pre-FEED) study for the HyNet Industrial CCUS Project. The HyNet CCUS pre-FEED project commenced in April 2019, and was funded under grant by the Department for Business, Energy and Industrial Strategy (BEIS) under the Carbon Capture Utilisation and Storage (CCUS) Innovation Programme.

Over the period January 2019 to May 2020, Eni has conducted a range of technical studies to assess the feasibility of a Carbon Capture and Storage project using their existing Liverpool Bay assets. This scope of work was carried out in conjunction with the BEIS funded HyNet CCUS Innovation Project led by Progressive Energy, but funded entirely by Eni. The results of this work have been provided by Eni to Progressive Energy under licence for the purposes of providing an integrated, full chain HyNet CCUS project report.

Delivery of the project was through a consortium formed between Progressive Energy Limited, Essar Oil (UK) Limited, CF Fertilisers UK Limited, Peel L&P Environmental Limited, University of Chester, and Cadent Gas Limited.

The main project objectives are as follows;

- To determine the technical feasibility of a full chain Industrial CCUS scheme comprising anchor loads from Stanlow Refinery and Ince Fertiliser Plant and storage in Liverpool Bay fields.
- To determine the optimised trade-off position between lowest initial cost and future scheme growth
- To determine capital and operating costs for the project to +/- 30% to support HMG development of a policy framework and support mechanism
- To undertake environmental scoping and determine a programme of work for the consent process

This document is one of a series of Key Knowledge Deliverables (KKD's) to be issued by BEIS for public information, as follows;

- HyNet CCUS Pre-FEED KKD WP1 - Basis of Design
- HyNet CCUS Pre-FEED KKD WP1 – Final Report
- HyNet CCUS Pre-FEED KKD WP2 - Essar Refinery Concept Study Report
- HyNet CCUS Pre-FEED KKD WP2 - Hydrogen Production Plant
- HyNet CCUS Pre-FEED KKD WP3 - Fertiliser Capture Report
- HyNet CCUS Pre-FEED KKD WP4 - Onshore CO2 Pipeline Design Study Report
- HyNet CCUS Pre-FEED KKD WP4 - CO2 Road Rail Transport Study Report
- HyNet CCUS Pre-FEED KKD WP5 - Flow Assurance Report
- HyNet CCUS Pre-FEED KKD WP6 - Offshore Transport and Storage
- HyNet CCUS Pre-FEED KKD WP7 - Consenting and Land Strategy



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# **HyNet North West Phase 1: Consenting and Land Strategy**

April 2020

**Turley**

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Appendix 1: Land Owner Consenting and Development Order Consent Strategy

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Appendix 2: Summary of HyNet Phase 1 Elements

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Appendix 3: High Level Programme

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Appendix 4: Extracts from Southampton to London DCO Application

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**Client**

Peel Environmental

**Our reference**

PEEM3112

April 2020

Final

# 1. Introduction

- 1.1 This Consenting and Land Strategy (CLS) has been prepared by Turley on behalf of the HyNet North West consortium ('the consortium'). It forms part of a submission to the Department for Business Energy and Industrial Strategy (BEIS) along with a Consultation Strategy (summarised in this report) and a Land Owner Consenting and Development Order Consent Strategy prepared by FGP (which forms Appendix 1 of this document).
- 1.2 The purpose of the CLS is to set out the consortium's approach for securing the necessary consents for a Carbon Capture Usage and Storage (CCUS) pipeline and associated facilities, as part of the HyNet North West hydrogen energy and CCUS project ('the HyNet project / HyNet'). Through the HyNet project, carbon produced by existing industrial premises in the Ellesmere Port, Cheshire area and future hydrogen producing facilities will be transported for off-shore storage via a pipeline (comprising a new-build element and reuse of existing pipelines) to depleted natural gas cavities in Liverpool bay. HyNet Phase 1 will encompass elements in England and Wales (and use of existing infrastructure offshore, within the UK Marine Area).
- 1.3 This CLS considers:
- The need for consents for different elements of the scheme
  - An overview of the consenting process
  - The proposed strategy to achieve the project objectives within the necessary timescales
- 1.4 It also summarises the approach in respect of land-referencing, compulsory acquisition and engagement with land-owners.
- 1.5 The CLS has been based upon: the emerging carbon dioxide (CO<sub>2</sub>) pipeline routing options, the results of a desktop environmental appraisal by RSK; and a review of relevant national and local planning policies. It has been prepared in the context of the relevant legislative framework and published guidance for Nationally Significant Infrastructure Projects (NSIPs) and our knowledge and experience of the NSIP consenting regime.
- 1.6 The CLS is presented in the following sections:
- Section 2: provides an overview of the proposed development
  - Section 3: identifies the main consents required
  - Section 4: summarises the Development Consent Order (DCO) process
  - Section 5: summarises the relevant policy context, with an emphasis on national policy and strategies
  - Section 6: sets out an overview of the suggested consenting strategy

- Section 7: provide a summary of this report

## 2. Overview of Proposed Development

### HyNet North West

- 2.1 HyNet North West is a hydrogen energy and CCUS project. The goal of HyNet is to reduce carbon emissions from industry, homes and transport and support economic growth in the North West of England.
- 2.2 CCUS prevents carbon dioxide entering the atmosphere by capturing it, compressing it and transporting it for safe, permanent storage; in this case in the depleted oil and gas fields in the Liverpool Bay. CCUS can capture up to 90% of the carbon emissions produced from industrial processes which use natural gas, such as fertiliser production. CCUS will protect industrial jobs in the North West by helping the largest carbon emitters in the region reduce their carbon emissions.
- 2.3 HyNet North West will comprise a nationally significant hub based around the production of hydrogen from natural gas, to supply energy-intensive industrial gas users to reduce their carbon dioxide emissions and to blend hydrogen with natural gas for residential and small business supply. The pipeline infrastructure could also offer the opportunity for transport fuelling, and the overall vision shows the potential for new power generation facilities.
- 2.4 HyNet North West is a significant clean growth opportunity for the UK. It will assist in meeting major challenges of reducing carbon emissions from industry, domestic heat and transport. It will be capable of use by the chemicals, glass and oil refining to food, paper and automotive industries.
- 2.5 HyNet is based on the production of hydrogen from natural gas. It ultimately includes the development of a new hydrogen pipeline and the creation of the UK's first CCUS infrastructure. Hydrogen will be produced at a dedicated facility and transported by a new pipeline network to existing and future industrial facilities. Carbon produced by the facilities will be captured through the CCUS network. The carbon capture and transport network represents a discrete phase (Phase 1) of the HyNet scheme.

### HyNet Phase 1

- 2.6 HyNet Phase 1 comprises the initial stage to facilitate CCUS, capturing carbon emissions from existing plant at Stanlow Refinery and the CF Fertilisers plant in the Ellesmere Port area and to compress, transport and store them in the Hamilton and Lennox fields in Liverpool Bay. The fields in Liverpool Bay have an estimated carbon storage capacity of 130 million tonnes, and gas extraction is likely to cease within the required project timeframe.
- 2.7 The minimum viable flow rate would be 0.4m tonnes per annum (tpa), with the potential for future flow rate to increase to 10m tpa.
- 2.8 This phase of the project would utilise existing pipelines that serve the fields wherever possible, going through the Point of Ayr gas terminal, but would require new pipelines

from the Stanlow / CF sites to connect through to these existing, repurposed pipelines near Connah's Quay.

2.9 There are a number of components to Phase 1:

- Modifications to Stanlow Refinery / CF Fertilisers Plant to enable carbon to enter the new pipeline.
- Carbon gathering network comprising connecting pipes between existing plant and a new collection point (StanlowAGI).
- A new CO<sub>2</sub> pipeline (36 inch diameter) running from the Stanlow AGI to the Connah's Quay AGI.
- Repurposing of an existing 24" pipeline between Connah's Quay AGI and Point of Ayr.
- Associated above ground infrastructure (AGI) such as block valves, pipeline route markers and inspection chambers.
- Use of the existing offshore pipelines between Point of Ayr and the Douglas Complex in the Liverpool Bay. It is assumed that no above ground works are required in order to utilise the pipelines.
- Use of existing oil and gas fields in Liverpool Bay for the storage of carbon dioxide.
- Temporary works associated with construction (including accesses, construction compounds etc).

2.10 A standard 12m easement for future maintenance will be required, with 6m to be considered for pinch points. A 40m temporary working width is expected, though this may need to reduce in specific areas of sensitivity.

2.11 It is possible that that existing repurposed pipelines would need to be replaced in the future in order to provide sufficient capacity for the 10m tpa flow rate. However, Phase 1 is intended to utilise the existing pipelines.

2.12 A number of preferred routes have been developed and refined, having regard to potential issues relating to environmental constraints, physical constraints (e.g. the presence of built development), engineering and land ownership constraints.

2.13 The consortium's current programme for HyNet Phase 1 is to secure consents by December 2023 / January 2024.



## 3. Consents Required

- 3.1 The schedule at Appendix 2 provides a summary of the need for, and suggested approach for achieving the consenting of the individual elements which comprise HyNet Phase 1. In short, the proposed development will require:
- Development Consent Order (DCO) (including other required permissions, consents, land and access rights and licenses capable of being granted as part of the DCO);
  - additional licenses for the storage of carbon in the Liverpool Bay fields.
- 3.2 The use of the existing pipelines is considered to not require consent as it does not involve a material change of use, and it is assumed that no operational development such as new valves or AGI would be required.
- 3.3 There will potentially be other consents and licences required (e.g. ecological licences). The CLS focusses on the principal consents though the consortium's consultant team is advising separately on additional licences and consents.
- 3.4 This section sets out an initial view on the consents required. An overview of the DCO regime is provided in Section 4.
- 3.5 HyNet Phase 1 will also be Environmental Impact Assessment (EIA) development under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and as such, the DCO application will be accompanied by an Environmental Statement (ES).
- Development Consent Order (including ancillary and Associated Development)**
- 3.6 The proposed development of pipelines which exceed 16.093km in length is a NSIP as defined in Section 141(g)<sup>1</sup> and Section 21 of the Planning Act 2008 (PA2008). Under Section 31 PA2008 a DCO is required to develop a NSIP. Under Section 37(1) PA2008 this can only be granted if an application for it is made to the Secretary of State (SoS).
- 3.7 The remainder of Phase 1 elements would comprise development (with the exception of the change of use of the existing pipeline and the use of the existing fields for storage which do not constitute development) but would not, in their own right, constitute NSIPs. It is expected that any of these elements that do comprise development would be capable of comprising either ancillary development under Section 120 of the PAS2008 or Associated Development as defined by Section 115 PA2008<sup>2</sup>.
- 3.8 In Wales, prior to the enactment of the Wales Act 2017, the PA2008 only made limited provisions for the inclusion of 'Associated Development' in the DCO. This position has

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<sup>1</sup>The construction of a pipe-line other than by a gas transporter. The proposed development would fall within this definition by virtue of S.66 Pipe-lines Act 1962

<sup>2</sup>Further guidance provided in DCLG Guidance on associated development applications for major infrastructure projects April 2013

now changed following the passing of the Wales Act 2017 and the inclusion on Associated Development is now possible.

**Other Licenses / Consents**

- 3.9 The full extent of the likely consents and licenses to be sought as part of the DCO for the HyNet Phase 1 project will be identified as the project progresses.
- 3.10 The use of the offshore fields for storage would be consented through the offshore consenting regime, expected to be via a licence from the Oil and Gas Authority (OGA) as per Sections 17 and 18 of the Energy Act 2008. This licensing may be included within the DCO with the permission of the OGA but can be dealt with separately. .
- 3.11 If other offshore works are involved which are not related to the CO<sub>2</sub> storage licensing constitute development they would be dealt with through Marine Management Organisation (MMO) consenting process (by Natural Resources Wales in relation to Welsh waters). In such circumstances there may be a potential need to deal with environmental impact of such elements as part of the EIA for the DCO application. This approach has been taken on other NSIPs with comparable elements<sup>3</sup>.
- 3.12 It is clear that voluntary agreements in the form of licence agreements and option agreements, leases and easements will be required from landowners and occupiers to ensure that agreement is reached not only to the pipeline corridor and construction of the same but also access for surveys, without which, compulsory rights would require to be sought. This sits outside the DCO process but assists the process.

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<sup>3</sup> Paragraph 2.3.13, Scoping Opinion Teesside Cluster Carbon Capture and Usage project, PINS ref. EN010103

## 4. Development Consent Order Process

- 4.1 This section provides an overview of the procedural requirements associated with applying for and securing a DCO for an NSIP.
- 4.2 The DCO process is underpinned by seven pieces of primary legislation, over 40 pieces of secondary legislation, 18 advice notes and 11 guidance notes. What follows is, therefore, only intended to provide an introduction.
- 4.3 As noted above, the PA2008 created a new development consent regime for NSIPs in the fields of energy, transport, water, waste water and waste. Applicants can expect to receive permission within 16 to 18 months from an application being submitted for examination.
- 4.4 The regime allows applicants to secure consent for the principal element of the development together with ancillary elements which are subordinate but integral to the development. It also allows for 'Associated Development' where there is a direct relationship between associated development and the principal development. It should therefore either support the construction or operation of the principal development, or help address its impacts and should be subordinate to the principal development. It should be proportionate to the nature and scale of the principal development but can be may provide additional capacity to serve another proposed major infrastructure project.
- 4.5 The PA2008 also allows for a range of other consents to be included within the DCO, such as environmental licences and permits. It may also be used to secure additional powers such as the rights to enter third party land to conduct surveys<sup>4</sup> or the rights to compulsory acquire land or rights over land<sup>5</sup>. There is a c. 12 month lead in time for access via these powers.
- 4.6 There is also the flexibility, where the specifics of a project cannot be fully defined at the time of an application, to define a range of parameters, against which the realistic worst case scenario (in terms of environmental effects) can be assessed.

### **Application Stages**

- 4.7 The process follows five key stages:
  - (a) Pre-application
  - (b) Application Acceptance
  - (c) Pre-Examination
  - (d) Examination

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<sup>4</sup> Section 53 of the PA2008

<sup>5</sup> (2) Section 122-134 of the PA2008

(e) Decision

**Pre-application**

- 4.8 Effective and extensive pre-application consultation on draft proposals and Preliminary Environmental Information (PEI) with a wide range of stakeholders is a fundamental requirement of the PA2008. For DCOs in Wales (or partly in Wales as here) it is important to take account of the Welsh language in how the consultation is conducted in terms of documents and other factors, in discussion with PINS and the local authority.
- 4.9 This is to ensure that key issues are identified early in the process and resolved where possible, through an iterative approach to scheme design. This ‘front-loading’ of consultation is intended to ensure shorter and more efficient examinations.
- 4.10 In brief, during the pre-application stage applicants are required to:

- Notify the Secretary of State of the proposed application<sup>6</sup>.
- Identify whether the project requires an Environmental Impact Assessment and, where it does, confirm that one will be provided.<sup>7</sup>
- Prepare a Statement of Community Consultation (SoCC) in consultation with the local authority within whose administrative area the project lies and, in some cases, adjoining authorities.

Where consulted a local authority has 28 days within which to respond. The SoCC should confirm how the applicant proposes to go about consulting the community in the vicinity of the proposed development. The document should also confirm how the applicant intends to publicise and consult upon Preliminary Environmental Information (PEI).<sup>8</sup>

- Make the SoCC available for inspection by the public in a way that is reasonably convenient for them to do so.<sup>9</sup>
- Publicise the proposed application<sup>10</sup> and carry out consultation on the draft proposals and (where appropriate) the PEI with the local community in accordance with the commitments set out in the SoCC. The deadline for consultation responses should be not less than 28 days from the day after receipt / last publication.
- Identify and consult statutory consultees on the draft proposals and PEI. Sections 42-44 of the PA2008 and Regulations<sup>11</sup> set out details of who should be consulted including local authorities, statutory bodies such as Natural England and Historic England, and persons having an interest in the land to be developed

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<sup>6</sup> Section 46 of the PA2008

<sup>7</sup> Regulation 6 of the Infrastructure Planning (EIA) Regulations 2017

<sup>8</sup> Regulation 10 of the Infrastructure Planning (EIA) Regulations 2017

<sup>9</sup> Section 47 of the PA2008

<sup>10</sup> Section 48 of the PA2008 and Regulation 4(2) of the Infrastructure Planning (Applications Prescribed Forms and Procedure) Regulations 2009

<sup>11</sup> Infrastructure Planning (Applications Prescribed Forms and Procedure) Regulations 2009

(i.e. those who own, occupy or have another interest in the land or who could be affected by a project in such a way that they might be able to make a claim for compensation). Again, the deadline for consultation responses should be not less than 28 days from the day after receipt / last publication.

The preparation of Statements of Common Ground between the applicant and statutory consultees is specifically encouraged to identify the primary areas of agreement and disagreement. The preparation of such can start early in the process and continue into the period of examination.

- Have regard to relevant responses to publicity and consultation and prepare / submit a Consultation Report to the application to the Secretary of State. This report shall document the responses which have been received to consultation and how the scheme has evolved / been amended to address any concerns which have been expressed and, where it has not been possible to do so, the reasons why<sup>12</sup>.

4.11 There is an expectation on larger NSIPs that applicants will usually undertake more than one round of formal consultation with the local community and other statutory and non-statutory consultees. In our experience a period of “informal” consultation is also advisable as a precursor to formal proceedings as, amongst other things, this allows the proposed approach to consultation / data handling to be stress-tested outside the statutory framework.

4.12 During this stage, there is scope to use the free of charge Pre-Application advice service offered by the Planning Inspectorate. Amongst other things they are able to offer advice on procedural matters, approach to EIA and are able to review draft application documents.

#### **Application Acceptance**

4.13 Before an application can be accepted, the Secretary of State is required to be satisfied that the pre-application consultation has complied with the provisions of the PA2008 and that the application as a whole is of a satisfactory standard. In this regard we are aware that the Planning Inspectorate is employing an increasingly rigorous approach to checking application documents including having regard to responses from the relevant local authorities as to the adequacy of the consultation which has been undertaken. The PA2008 specifies that the Secretary of State must decide on whether or not to accept the application for examination within 28 days of receipt.

#### **Pre-Examination**

4.14 Once the application has been accepted, the applicant is obliged to publicise this accordingly and notify prescribed persons. They are also obliged to make copies of the application available.

4.15 The Secretary of State will appoint an Examining Authority which may be single Examining Inspector or a panel of up to five persons. It is at this point that the

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<sup>12</sup> Section 37 of the PA2008.

interested parties are invited to provide a summary of their views on the application (these are known as 'relevant representations').

- 4.16 A Preliminary Meeting will be arranged by the Examining Authority to which all interested parties will be invited. Principally, this meeting will be to discuss arrangements for examination of the application, including the timetable. The full listed of interested parties is defined in s102 of the PA2008 and includes the applicant, certain persons with an interest in relevant land, the relevant local authority and persons who have made relevant representations
- 4.17 As noted above, applicants are encouraged to progress Statements of Common Ground in this period with relevant consultees where it is possible to do so.
- 4.18 The pre-examination period takes c. three months from the applicant's formal notification and publicity of an accepted application.

#### **Examination**

- 4.19 The Examining Authority has six months in which to conduct the examination and it is in this period that interested parties will be invited to provide more details of their views on the application. The relevant Local Authority(s) are able to submit a Local Impact Report at this time, if they choose to do so.
- 4.20 The Examination is an extremely demanding process, with multiple work streams running in parallel as well as being interconnected. The main written work streams involve written submissions against multiple deadlines involving initial Written Representations, Responses to Examining Authority Questions, comments on these submissions from other interested parties and on the Local Impact Reports. In addition there is ongoing negotiation of the detailed provisions of the DCO itself, including protective provisions with multiple parties together with negotiation of a range of Statements of Common Ground and potentially side legal agreements and a section 106 agreement.

In addition to the written work streams there will typically be a range of issue specific hearings on specialist topics like ecology, air quality and detailed DCO drafting, open floor hearings for the local community and compulsory acquisition hearings.

#### **Determination**

- 4.21 Following the close of the examination the Examining Authority must provide its report and recommendation to the relevant Secretary of State within three months. Following receipt of the same the Secretary of State has three months in which to determine whether to grant or refuse the Development Consent Order.
- 4.22 Once the decision is issued there is a six-week period in which it may be challenged in the High Court.

## 5. Relevant Policy Context

- 5.1 There is a substantial body of national planning and other Government strategies of relevance to the HyNet scheme. It provides a significant level of support for the project. A brief summary is provided below.

### National Planning Policy

#### National Policy Statements

- 5.2 The Government has published National Policy Statements (NPS) in respect to nationally significant energy infrastructure projects. The SoS must, subject to certain exceptions<sup>13</sup>, decide DCO applications in accordance with the relevant NPS.
- 5.3 The Overarching NPS for Energy (EN-1) sets out the Government's policy for delivery of nationally significant energy infrastructure. It is supplemented by a further technology specific NPS for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4).
- 5.4 There is a presumption in favour of granting consent to applications for energy NSIPs (unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused).
- 5.5 EN-1 explains that *'The UK must therefore reduce over time its dependence on fossil fuels, particularly unabated combustion. The Government plans to do this by improving energy efficiency and pursuing its objectives for renewables, nuclear power and carbon capture and storage'*<sup>14</sup>. The NPS recognises that *'Carbon Capture and Storage has the potential to reduce carbon emissions by up to 90%'*<sup>15</sup>.
- 5.6 EN-1 recognises<sup>16</sup> the ability to use CCUS on industrial processes that emit a large amount of carbon. Encouragement is given<sup>17</sup> to enabling pipeline networks to facilitate their use as part of a wider carbon dioxide pipeline network by building in greater capacity than may be needed for initial project(s). NPS EN-4 underlines the important role that gas and oil pipelines play<sup>18</sup>.
- 5.7 A series of Generic Impacts to be assessed are set out in Part 5 of EN-1<sup>19</sup>. They are not intended to be exhaustive and should be read together with the technology-specific impacts<sup>20</sup>.

#### National Planning Policy Framework

- 5.8 Paragraph 5 of the NPPF is explicit that the Framework does not contain specific policies for NSIP, which are determined *'in accordance with the decision-making*

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<sup>13</sup> Exceptions: lead to the UK being in breach of its international obligations; be in breach of any statutory duty that applies to PINS or the SoS; be unlawful; result in adverse impacts from the development outweighing the benefits; or be contrary to regulations about how its decisions are to be taken.

<sup>14</sup> EN-1, paragraph 2.2.23

<sup>15</sup> EN-1 paragraph 3.6.4

<sup>16</sup> EN-1 paragraph 4.7.1

<sup>17</sup> EN-1 paragraph 4.7.7

<sup>18</sup> EN-4 paragraph 2.19.1

<sup>19</sup> EN -1 part 5, paragraphs 5.1.1 to 5.15.10

<sup>20</sup> EN-4 sections 2.20 – 2.23.8

*framework set out in the PA2008 and relevant national policy statements for major infrastructure*'. However, matters that the decision-maker considers important and relevant when making decisions on applications for development consent are also applicable and may include the NPPF (as confirmed by Paragraph 5 of the Framework).

- 5.9 Moving to a low carbon economy is specifically recognised as part of the 'environmental' objective – one of three overarching objectives of the planning system. Similarly, it is clear<sup>21</sup> that the planning system *'should support the transition to a low carbon future'* and should *'support renewable and low carbon energy and associated infrastructure'*. Local Planning Authorities are required to take a positive approach to such developments in plan making and the determination of planning applications.

### **Planning Policy Wales : Edition 10, December 2018**

- 5.10 Planning Policy Wales (PPW) provides the national planning policy framework in Wales. It shares a similar approach to the NPPF in terms of delivering sustainable development. In doing so, the decarbonisation of society is set out as a Key Planning Principle. The economic and environmental considerations which, along with social considerations, represent the three strands of sustainable development, specifically refer to having regard to how the proposal would support the achievement of a low carbon, innovation in Wales and the degree to which it would support decarbonisation and the transition to a low carbon economy. Environmental sustainability is recognised as encompassing encourage decarbonisation and prevent the generation of waste and pollution.

### **Other National Policy / Strategies**

#### **The Clean Growth Strategy, October 2017 (Updated April 2018)**

- 5.11 The Clean Growth Strategy (CGS) places achieving growth in the national income while cutting greenhouse gas emissions at the heart of the UK's Industrial Strategy. Reducing the UK's environmental impact, particularly in terms of reducing carbon emissions and decarbonisation of the economy, in order to meet the obligations of the Climate Change Act is a fundamental requirement if this is to be achieved. The Climate Change Act places a legal obligation on the UK to reduce its emissions by at least 80 per cent by 2050.
- 5.12 The CGS makes a commitment that the UK will *'demonstrate international leadership in carbon capture usage and storage'* and sets an ambition to deploy CCUS at scale in the UK.
- 5.13 The CGS has two guiding objectives:
- (a) To meet our domestic commitments at the lowest possible net cost to UK taxpayers, consumers and businesses; and,
  - (b) To maximise the social and economic benefits for the UK from this transition.

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<sup>21</sup> NPPF 2019, paragraph 148



### **Driving Clean Growth : CCUS Cost Challenge Taskforce Report, July 2018**

- 5.14 The CCUS Cost Challenge Taskforce was established in January 2018 with the remit of informing and proposing a strategic plan to Government for supporting the development of CCUS in the UK.
- 5.15 The Report presents proposals from the taskforce to inform a new approach to CCUS deployment that will enable cost reductions to be secured.
- 5.16 It concludes that CCUS meets the tests of the Clean Growth Strategy, in that it will:
- Deliver maximum carbon emissions reductions
  - Follow a clear cost reduction pathway; and
  - Make the UK a global technology leader.

### **Industrial Strategy – Building a Britain Fit for the Future, November 2017 (Updated June 2018)**

- 5.17 The Industrial Strategy’s overriding objective is to create an economy that boosts productivity and earning power throughout the UK. Innovation and infrastructure are two of the foundations to achieve this vision.
- 5.18 It seeks to ensure that investments in infrastructure are consistent with Government’s goals for cutting carbon emissions while growing the economy as set out in the CGS. The Industrial Strategy commits to investment to support innovation in low carbon industrial processes and technologies including carbon capture.
- 5.19 It goes on to set out the need to recognise the opportunity that CCUS presents in terms of carbon reduction and unlocking value across the economy. It stresses the urgency to act now to deliver CCUS at scale and at the lowest costs. Viable business models are required to achieve this, though the taskforce believe that CCUS can already be deployed at a competitive cost.

### **Clean Growth : The UK Carbon Capture and Storage Deployment Pathway, November 2018**

- 5.20 The deployment pathway is a Government action plan to enable the UK to play a leading role in supporting the development of CCUS. Its importance to enable clean industrial growth and enabling decarbonisation of the economy is made clear.
- 5.21 It commits the UK to have the option to deploy CCUS at scale during the 2030s subject to the costs coming down sufficiently. To realise this ambition, the Action Plan is designed to enable the development of the first CCUS facility in the UK, commissioning from the mid-2020s. Close partnership with industry is essential if this is to be achieved.

## **Clean Growth - Transforming Heating, December 2018**

- 5.22 The document reaffirms the importance of decarbonisation and the importance of achieving this in relation to heat demand, which accounts for over one third of the UK's greenhouse gas emissions.
- 5.23 It identifies a number of strategic 'interferences' including the widespread use of hydrogen (with CCUS) to deliver deep reductions in carbon emissions. It also places much emphasis on CCUS as a route to decarbonise heavy industry. It notes that CCUS offers the potential to achieve a net removal of emissions (i.e. negative carbon emissions).

### **Local Development Plan**

Unlike a traditional Town and Country Planning Act (TCPA) planning application, there is no statutory duty for a DCO application to be determined in accordance with the Development Plan unless material considerations indicate otherwise; the Development Plan does not have the same primacy as for applications under the TCPA.

However, EN-1 acknowledges that other matters such as local development plans may also need to be taken into account but states that in the case of any conflict between these other documents and the NPS, the NPS prevails for the purpose of decision taking.<sup>22</sup>

- 5.26 The proposed route will lie in the Local Authority areas of Cheshire West and Chester and Flintshire. The adopted development plan documents are:
- The Cheshire West and Chester Local Plan (Part One) Strategic Policies ('LPPO' adopted 2015);
  - The Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies ('LADP' adopted 2019); and
  - The saved policies of the Flintshire Unitary Development Plan (UDP) ('FUDP' adopted 2011).
- 5.27 These plans contain strategic and detailed development management policies, designations and site allocations). Full regard will be had to the relevant policies contained within these documents in order to seek to demonstrate compliance (or that any conflicts are minimised). Any policy conflicts arising will be addressed through the DCO application which will seek to demonstrate that they are clearly and demonstrably outweighed by the substantial benefits of the scheme.

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<sup>22</sup> Paragraph 4.1.5

## 6. Planning Strategy

- 6.1 This section sets out the strategy for securing the DCO for HyNet Phase 1. It covers the overall case to be presented, compulsory purchase, matters which have a particular bearing on the programme), the approach to relevant procedural matters, consultation and the project team.

### **The Case for HyNet Phase 1**

- 6.2 NPSs are clear that it is not necessary to demonstrate a need for NSIPs and introduces a presumption in favour of development for energy-related NSIPs (subject to no specific policies in NSPs indicating that consent should be refused – there are no such policies in this case). HyNet Phase 1 would therefore benefit from the presumption.
- 6.3 There is a consistent and strong level of support for this type of technology in national planning policy and Government strategies. These documents recognise the potentially significant benefits that such developments can deliver in terms of:
- Moving to a net zero carbon economy
  - Reducing emissions from existing industrial process
  - Contributing to the UK’s global reputation as a leading innovator in this emerging field
  - Support the ‘clean growth’ of the UK economy – a central facet of the Government’s plan for future economic growth
  - Putting in place the necessary infrastructure for the use of hydrogen to deliver further de-carbonisation of the economy (delivered by later phases of HyNet)
- 6.4 In addition, it is expected that a range of social and economic benefits will be secured by the development itself.
- 6.5 The DCO application will substantiate the case in favour, providing the supporting information and assessments to quantify the benefits arising. It will also demonstrate that the proposed development has evolved such that it’s routing and design has avoided or minimised impacts (or if unavoidable incorporates suitable mitigation measures), such that there are no unacceptable impacts arising.

### **Compulsory Acquisition**

- 6.6 The consortium will undertake to seek private negotiations for voluntary agreements with landowners and occupiers, before going public on the details of its intention to develop, i.e. before the informal non-statutory process commences. This would satisfy a requirement that it has sought to acquire the land interest by voluntary agreement before seeking compulsory acquisition powers.

- 6.7 Compulsory acquisition powers for will be sought for all land within the order limits to provide certainty of delivery of the scheme. It is expected that the powers will seek temporary and permanent and temporary rights for construction and maintenance purposes even where voluntary agreement has been reached.
- 6.8 The application will therefore need to demonstrate that the HyNet scheme will result in a compelling case that the project was in the public interest – the test for compulsory purchase order rights to be granted – as set out above. The case presented in the application will have particular regard to the extent it will align with Government priorities and strategies and the environmental, social and economic benefits of the project.

### **Programme**

- 6.9 The consortium has developed a challenging but realistic programme in order to achieve consent by December 2023 / January 2024. It has been developed having regard to the statutory requirements of the PA2008 and associated guidance, notably the requirements around effective and comprehensive consultation (considered further below).
- 6.10 It has been informed by a thorough understanding of the DCO process and the statutory requirements.
- 6.11 The overall strategy has been devised to achieve this programme.
- 6.12 This follows an earlier iteration of the programme to submit the DCO in Q1 2021 and secure consent by summer 2022. This programme is illustrated in Appendix 3. This assumed that some elements of the application preparation could be accelerated (notable the wintering bird surveys). For funding reasons, this has not been possible.

### **Route Options**

- 6.13 The process of identifying potential route options began in summer 2019 and a number of preferred routes have been identified. The consortium is continuing to optimise options, having regard to physical and environmental constraints.
- 6.14 Route options and refinement will be informed by feedback received through informal meetings and consultation with LPAs, statutory consultees and landowners, utility companies and through informal and formal consultation with the local community. It will therefore be an iterative process which seeks to minimise environmental impacts. This is a key issued for any linear DCO.

### **Seasonally-Sensitive Survey Work**

- 6.15 RSK have been appointed to advise on environmental matters and to lead the preparation of the EIA. They have advised that it is necessary to undertake wintering bird surveys.
- 6.16 Wintering bird surveys require monthly visits, between October and March (inclusive) to observe bird movements. They are principally required where the pipelines (or

associated temporary elements) are close to, or within, ecological designations and have the potential to affect, directly or indirectly, wintering birds associated with the ecological site. There are a number of such designations concentrated on the Dee Estuary with a further area close to Stanlow (at Gowy Meadows proximate to the Mersey Estuary). Both estuary areas have extensive ecological designations, including international designations.

- 6.17 The Consortium proposes to undertake this survey work in Winter 2020/21 which will be sufficiently early in the programme to inform the environmental baseline (necessary for undertaking EIA and consultation). Walkover surveys will also be undertaken at this time and may identify the need for further seasonally sensitive surveys.

### **Definition of the DCO**

- 6.18 It is expected that the following elements will be included in the DCO, either comprising NSIPs in their own right or Associated Development. A breakdown of each element and its status (as an NSIP or Associated Development) is provided at Appendix 2. This confirms that elements of Phase 1 are capable being included within the DCO on this basis.
- 6.19 It should be noted that modifications to the existing plant, required to facilitate the collection of the CO<sub>2</sub>, are currently proposed to be omitted from the DCO. Legal advice provided to the consortium confirms that this is entirely possible and an acceptable approach in the context of the PA2008. It also confirms that they could fall within the definition of Associated Development and could therefore legitimately be included within the DCO; it is at the promoter's discretion.
- 6.20 If not included in the DCO, they will be considered and assessed through the EIA (either as a part of the project or a linked, though separate, project). Information will be provided as part of the DCO application to demonstrate that they can be consented through alternative routes (likely to be via the Town and Country Planning Act 1990) to provided PINS with reassurance that they are deliverable.
- 6.21 Sufficiently detailed information about each element of the proposed development will be required for the purpose of EIA and consultation.
- 6.22 There are elements, however, where information may not be available prior to the determination of the DCO.
- 6.23 As these works are a fundamental part of the proposed development, necessary to enable carbon dioxide to enter the pipeline, it is our view that, whilst there is no legal requirement to include all works within the DCO, they should be included. This will ensure that the application seeks DCO for a deliverable and viable project and that the significant potential benefits associated with the development, in terms of reducing carbon emissions would be realised. This would also support the assertion that there was a compelling case that the project was in the public interest thus enabling compulsory purchase rights to be granted, essential for the project to proceed.
- 6.24 If particular elements would not be fully designed for inclusion in the DCO, they would be designed to a level sufficient to enable EIA assessment but with Requirements

around detailed design proposed for inclusion in the DCO. This would be consistent with the approach taken in the Southampton to London Pipeline NSIP.

- 6.25 The Southampton to London Pipeline NSIP<sup>23</sup> was accepted for examination in June 2019. It involves a replacement aviation fuel pipeline. As part of that project, modifications to an existing terminal at one end of the pipeline are required. The project includes these works but the level of detail provided is limited, with a short written description provided in the Environmental Statement and an area for the works shown on a General Arrangement drawing. The Planning Statement refers to outline designs for the modifications having been designed but no further information seems to have been provided. Relevant extracts of these documents are provided at Appendix 4. It is proposed that this approach is taken for HyNet Phase 1.

### Consultation

- 6.26 This is presented in the separate Consultation Strategy but is summarised below.
- 6.27 Our recommended strategy for the project proposes three stages of pre-application consultation. This will consist of the following stages:
- **Non- Statutory (informal) – Project launch and ‘Pipeline Corridor Consultation’**
  - **Stage 1 – Statutory (formal) Consultation on ‘Preferred Route Consultation’**
  - **Stage 2 – Statutory (formal) Consultation on ‘Route Refinements’**
- 6.28 A multi-stage strategy for pre-application consultation involving both non-statutory and statutory consultation is a PINS-accepted approach for linear NSIP schemes such as the HyNet pipeline project. The proposed strategy shares similar principles to recently accepted NSIP projects including the Southampton to London pipeline project (90km aviation fuel pipe submitted in May 2019) and the Thorpe Marsh Gas Pipeline project (19.1 km buried gas pipeline approved by PINS in 2016<sup>24</sup>).
- 6.29 The strategy recommends frontloading consultation at the informal stage with potential prescribed consultees, local and host authorities, potential people with interest in the land (PILs) and local communities. These early discussions on the high-level potential pipeline route will provide feedback in the general alignment of the route and identify any unknown consultees which may need to be captured by the statutory stages of consultation.
- 6.30 Informal, non-statutory consultation is followed by the preparation of the required Statement of Community Consultation (SOCC) in consultation with the neighbouring and host authorities. The statutory, formal consultation must deliver the commitments made in the published SOCC (under Section 28 of the PA2008). During the two subsequent stages of formal, statutory consultation on the ‘Preferred route’ and

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<sup>23</sup> PINS ref. EN070005

<sup>24</sup> PINS ref. EN070003

subsequent 'Design refinements' would occur simultaneously under Sections 42<sup>25</sup>, 43<sup>26</sup>, 44<sup>27</sup>, 47<sup>28</sup> of the PA2008.

- 6.31 During Stage 1 formal consultation on the 'Preferred route', the Preliminary Environmental Information is made available. This approach follows DCLG's (now MCHLG's) 2015 guidance to consult when proposals are firm enough to enable consultees to comment, in a meaningful way on the proposals. At the second stage of formal consultation on 'Design refinement' the draft ES would be made available.
- 6.32 This approach is considered to be sufficiently comprehensive to enable/ the requirements of the PA2008 and associated guidance to be met.

#### **Consultation with Landowner and Occupier Stakeholders**

- 6.33 The landowners and occupiers along the proposed pipeline corridor are a fundamental stakeholder within the consultation process and require to be identified at an early stage and certainly prior to the non-statutory informal process, not least to be able to identify them. Prior to the non-statutory informal process, it is anticipated that landowners and occupiers will be contacted as follows.

#### **Land Referencing**

- Undertaking a land registry search to identify all known freehold and leasehold occupations, together with address details if known.
- Contacting landowners and occupiers by letter for confirmation details of ownership and occupation.
- Searching the electoral roll for missing landowner and occupier details.
- Identifying landowners and occupiers on the ground if cannot be identified by other sources i.e. land is not registered.
- Seeking confirmation from landowners and occupiers of proof of ownership and occupation.
- Meetings with landowners and occupiers on the ground to confirm ownership and occupation and they are indeed a stakeholder, together with required contact information.

#### **Discussions on the Proposed Pipeline Corridor**

- Meetings with landowners and occupiers to ensure that there are no obstacles along the route of the pipeline corridor that cannot be recognised by any other source.
- Meetings with landowners and occupiers to identify any proposed developments already agreed to, legal documents have been secured for and/or planning

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<sup>25</sup> Prescribed bodies

<sup>26</sup> Host and neighbouring planning authorities

<sup>27</sup> Landowners, lessees, tenants (and those with an interest in the land)

<sup>28</sup> Local communities, local community groups

permissions are about to be or have been submitted for other developments along the pipeline corridor.

- Meetings with landowners and occupiers for confirmation of any underground apparatus that may affect the pipeline corridor.



## 7. Summary

- 7.1 This Consenting and Land Strategy (CLS) has been prepared by Turley on behalf of the HyNet North West consortium ('the consortium').
- 7.2 It forms part of a submission to the Department for Business Energy and Industrial Strategy (BEIS) along with a Consultation Strategy (summarised in this report) and a Land Owner Consenting and Development Order Consent Strategy prepared by FGP (which forms Appendix 1 of this document).
- 7.3 The CLS sets out the consortium's approach for securing the necessary consents for a Carbon Capture Usage and Storage (CCUS) pipeline and associated facilities, as part of the HyNet North West hydrogen energy and CCUS project ('the HyNet project / HyNet'). Through the HyNet project, carbon produced by existing industrial premises in the Ellesmere Port, Cheshire area and future hydrogen producing facilities will be transported for off-shore storage via a pipeline (comprising a new-build element and reuse of existing pipelines) to depleted natural gas cavities in Liverpool bay.
- 7.4 This CLS considers:
- The need for consents for different elements of the scheme
  - An overview of the consenting process
  - The proposed strategy to achieve the project objectives within the necessary timescales
- 7.5 It demonstrates that the proposed development will require a DCO. This may include all of the requisite elements of the project within England and Wales. Further licence from the OGA will be required for the storage of carbon in Liverpool Bay and cannot be secured through the DCO.
- 7.6 There is a very strong case for the development, having regard to national planning policies and Government strategies. The development of a new pipeline which constitutes an NSIP (as HyNet Phase 1 does) will benefit from a presumption in favour of development. The DCO application will articulate this case in full.
- 7.7 The DCO process places effective and comprehensive consultation at its heart. A separate strategy for this work is prepared and demonstrates how this will be achieved within the requisite timescales. The strategy is informed by experience of similar projects and a review of precedent schemes.

**Appendix 1: Land Owner Consenting and  
Development Order Consent  
Strategy**

# HyNet North West Phase 1: Landowner Consenting and Development Consent Order Strategy

March 2020

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**Client**  
Peel Environmental

**Our reference**  
PEE001/Hynet

31 March 2020



CHARTERED SURVEYORS IN  
UTILITIES & INFRASTRUCTURE

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# 1. Introduction

- 1.1 This Landowner Consenting Strategy appertaining to the proposed Development Consent Order (LDCOS) has been prepared by Fisher German Priestner Limited (FGP), a firm of rural practice chartered surveyors specialising in energy and infrastructure, on behalf of the HyNet North West consortium ('the consortium'). It forms part of the CCUS Pre-FEED submission to the Department for Business Energy and Industrial Strategy (BEIS).
- 1.2 The purpose of the LDCOS is to set out the consortium's approach for securing the necessary consents from landowners, occupiers and third parties with property rights for a Carbon Capture Usage and Storage (CCUS) facility, as part of the HyNet North West hydrogen energy and CCUS project ('the HyNet project / HyNet'). The programme including timelines and strategy for landowners, occupiers and third parties to consent to a plethora of requirements forms a crucial part of the overall DCO submission, as the success of the strategy permits the gathering of data and information required and access rights for the application. Compulsory purchase rights can be relied on under the Development Consent Order ("DCO") process, but cannot always be relied upon to provide the rights required to meet the proposed DCO application deadlines and overall programme.
- 1.3 This LDCOS considers:
- The need for landowner and occupier voluntary consent for gathering of data and undertaking surveys for the DCO submission
  - The requirement for landowner and occupier voluntary consent for the consenting of the pipeline route and above ground installations
  - The proposed strategy and programme to achieve all landowner, occupier and third party consents to meet project objectives within the necessary timescales and in particular submission of the DCO application with compulsory purchase rights included as a necessary backstop rather than as required
  - The need for other third party rights and consents and investigation to include within and preparation of a Book of Reference for the DCO submission
  - Compulsory Purchase Powers and Rights required as part of the DCO submission
  - Other landowner based support being a pre-requisite of the final documentation required for the DCO submission to include Section 135 Consents, Crossing Agreements, records of Section 42 Consultation, a Statement of Reasons for Compulsory Rights and identification of Rights reasonably required, a Land Plan, Crown Estate Plan and a Funding Statement

- 1.4 The LDCOS has been based upon the legislative and published guidance for Nationally Significant Infrastructure Projects (NSIPs), our knowledge and experience of the NSIP consenting regime and the significant number of DCO applications that FGP have supported. It is presented in the following sections.

Section 2 :- Book of Reference

Section 3:- Voluntary Agreement for Surveys

Section 4:- Voluntary Agreement for the Construction and Maintenance of the Pipeline Route and Above Ground Installations

Section 5:- Other LDCOS Requirements – Funding Statement, Section 135 Consents and Crossing and Protective Provision Agreements

- 1.5 Establishing a good relationship with owners and occupiers to secure voluntary agreements by negotiation will be essential to meet the timescales required.

## 2. Section 2:- Book of Reference

- 2.1 This Section details the importance of initial contact with landowners and occupiers and those with third party rights and establishing all information required for the Book of Reference part of the DCO submission.
- 2.2 Landowners and occupiers and those with third party rights, as part of the NSIP regime, are now included and reported as statutory stakeholders, thus meaning that they must be included in all matters of consultation to include being notified of and invited to key stakeholder events and being included in publications.
- 2.3 Whilst a land registry search will be undertaken to locate freehold ownership and lease occupation of more than 7 years, this information is often not up to date, for example if ownership is in probate and leasehold information if under the Agricultural Holdings Act 1986 legislation is often not registered. Land registry is a good starting point for gathering of data but does not always provide the information required for a DCO application.
- 2.4 A chartered surveyor will assess each land registry title and identify all known landowners and occupiers and relevant third party rights that affect the proposed CO<sub>2</sub> pipeline route and record the same.
- 2.5 It will be necessary for chartered surveyors to meet with landowners and occupiers and those with third party rights (often detailed on the land registry titles or provided from landowners and occupiers) to determine all property rights over land, contact details to include in a Book of Reference and any information on future development or planning applications that may hinder a DCO application. Building up a relationship with landowners and occupiers to ensure that all relevant information is provided is an important part of the DCO process.
- 2.6 All General Data Protection Regulation (GDPR) Guidelines will be followed and only information and data provided by either Land Registry or the Landowner, Occupier or Third Party will be recorded with the latter being with permission. Some data provided will not be utilised in the Book of Reference being submitted as part of the DCO Application, such as telephone numbers and email addresses, which are for contact use only.
- 2.7 The recording of all meetings with landowners and occupiers and those with affected third party rights and their agents or solicitors will be required for the DCO process, provision of the Book of Reference and if necessary securing of compulsory purchase rights. This is a key deliverable and all meetings will be held by HyNet's chartered surveyors and this information will assist in forming the Book of Reference to be prepared by the Property Lawyer and Chartered Surveyor in the DCO Submission, which will be split into Part 1, Category 1 and 2 (Qualifying Persons), Part 2, Category 3 (Third Party Claims) under Section 57 of the Planning Act 2008, Part 3, Easements or other Private Rights of Way proposed to be extinguished, suspended or disposed of, Part 4, Crown Estate Interests and Part 5, Special Category Land.

- 2.8 It is recognised, particularly in a predominantly agricultural area, as is the proposed HyNet pipeline route, that the chartered surveyors undertaking the land referencing to have a good understanding of all types of occupation to include secure Agricultural Holdings Act 1986 tenancies, Farm Business Tenancies under the Agricultural Tenancies Act 1995 and more simpler occupations under Grazing and Cropping Licences and Contract Farming Agreements, albeit it is not necessary to include those rights within the Book of Reference; however they will be vital information for accessing land and undertaking environmental, planning and engineering studies.
- 2.9 There will be areas along the proposed pipeline route and around proposed above ground structures where the land is unregistered and the ownership and occupation including of third party rights details is unknown. Where landowners and occupiers cannot be located by referencing on the ground, notices will be erected on the ground with an appropriate plan, requesting for any landowners, occupiers or those with third party rights to come forward on every Section 42 Consultation.
- 2.10 As part of the Book of Reference gathering process all details will be sought and recorded regarding agents and solicitors appointed by the landowners and occupiers, for support to be provided in the voluntary agreement process detailed in Sections 3 and 4.
- 2.11 The Book of Reference will be prepared as soon as the Land Registry information is gathered and is updated as more data and information is gathered and forms part of the compulsory rights and purchase process requiring this information, but also provides detailed information for the consultation process.
- 2.12 As the Book of Reference information will be required for the consultation process, preparing information for the Book of Reference will be required at an early date and before the consultation process commences. In accordance with the timeline detailed in Appendix A, gathering of all appropriate data for a pipeline route, will take no longer than a 3-4 week process
- 2.13 The Book of Reference will remain updated throughout the DCO Application process and finally updated just before DCO submission and to match the Land Plans, Crown Estate Plans and Special Category Land Plans that support it.
- 2.14 Whilst voluntary agreements will be sought where required with all landowners and occupiers and those with third party rights, compulsory rights and purchase will always be applied for and sought over all land required as part of the DCO process and particular for the suspension or extinguishment of third party rights.



### 3. Section 3:- Voluntary Agreement for Surveys

- 3.1 This section expands on the requirement for landowner and occupier agreement to undertake surveys on their land to gather essential data to form part of the DCO submission.
- 3.2 It will be necessary to undertake surveys on foot and with vehicles for archaeological, environmental, planning and engineering reasons to gather data required to be submitted and assessed as part of the DCO process and application.
- 3.3 A voluntary agreement under a written Survey Licence Agreement (to provide security of access rather than verbal) will be completed with landowners and occupiers along the proposed pipeline route and with landowners and occupiers not along the proposed pipeline route. Landowners and occupiers could be affected that for example have a pond located within the curtilage of their dwelling that is not on the pipeline route but within a certain radius of the pipeline route and the environmentalists deem it necessary to undertake a series of great crested newt surveys on that particular pond. Likewise, the engineering team may require to undertake a survey of a structure within a certain proximity of a directional drill, but the affected landowner is not on the pipeline route.
- 3.4 A written voluntary Survey Licence Agreement essentially is for pedestrian access only along agreed access routes and on dates and at times to be agreed with landowners and occupiers, particularly if the surveys are undertaken at night ie noise or great crested newt surveys.
- 3.5 A chartered surveyor will be engaged to negotiate and secure a two year Survey Licence Agreement with all known landowners and occupiers and ensure where applicable that a chartered surveyor properly represents landowners and occupiers and that each landowner and occupier is provided with a similar agreement.
- 3.6 If engineering and environmental surveys require vehicular access to undertake ground investigation surveys to include boreholes or trial pits or environmental surveys to include archaeological digs, further voluntary Survey Licence Agreements will be secured with the affected landowners and occupiers to include for fair and reasonable compensation and payment of fees and for all to be provided with a similar agreement.
- 3.7 Details gathered from the Book of Reference in Section 2 will be utilised in this Section.
- 3.8 It is known that compulsory rights can be sought for surveys under Section 53 of the Planning Act 2008, but voluntary agreements will always be sought in the first instance.
- 3.9 A chartered surveyor will be engaged to secure all voluntary agreements within a 6 week period (as detailed in Appendix A) to ensure that all surveys can be undertaken within the timeframe provided and the season required for environmental surveys.
- 3.10 The chartered surveyor will continue the relationship with all landowners and occupiers in arranging access for surveys.

## 4. Voluntary Agreement for the Construction and Maintenance of the Pipeline Route and Above Ground Installations

- 4.1 This Section highlights and emphasises the importance of gaining landowner, occupier and where applicable third party consents for the pipeline route and ancillary apparatus, rather than rely on the application of compulsory rights, which will be included within the DCO Application and the need to maintain a good relationship with these parties.
- 4.2 Compulsory Purchase Rights and Purchase can be sought for the pipeline route and above ground installations under the DCO Application process, the submission of the Book of Reference, details of those rights and purchase sought in the Statement or Reasons and funding secured in the Funding Statement. This would enable compulsory rights and purchase to be activated temporarily and permanently under the Compulsory Purchase Act 1965, Land Compensation Act 1973, Planning and Compensation Act 1991 and General Vesting Declaration Act 1981.
- 4.3 As part of the DCO process and consultation with statutory stakeholders to include landowners and occupiers and third parties and the compulsory purchase process, it is required for the applicant to seek an agreement for the rights and purchase required by way of a voluntary agreement. This is normally in the format of an Option for Lease or and Option for an Easement or Purchase.
- 4.4 Securing voluntary agreements by way of a lease or easement or purchase not only secures all those rights detailed in the DCO application, but also other rights that may be required such as laying of land drainage outside the DCO redline application boundary, which can only be designed at a later date.
- 4.5 Dependent on the timeframe for commencing surveys, it is also possible to include all survey requirements within the Option for Lease, Easement or Purchase.
- 4.6 An Option for Lease, Easement or Purchase would also be able to detail accommodation works required by the landowner, occupier or third party such as certain types of stockproof fencing, crossing gates in certain locations, land drainage required, cathodic protection options, stock handling pens and alternative grazing areas for during construction, which could be raised in a compulsory purchase hearing. It also enables for compensation figures to be agreed at an earlier stage to assist with budgeting.
- 4.7 A chartered surveyor will be employed to secure all Options for Leases, Easements and Purchases, once the appropriate document has been agreed amongst the team and will be subject to further negotiation with the landowner, occupier and third party chartered surveyor and solicitor.

- 4.8 A chartered surveyor should be able to secure at least 70% of the Options within an 8 week timeframe (as detailed in Appendix A), thus ensuring that all surveys and possible works can continue and for data to be gathered for the DCO application.
- 4.9 It should be noted that compulsory purchase rights and the option to purchase will still be applied for within the DCO application, due to the fact that all Options are merely that, an Option and if a landowner, occupier or third party is not able to grant the Lease, Easement or Purchase, the compulsory rights can be relied upon.
- 4.10 If Options and voluntary agreements are not secured with landowners and occupiers, this will elongate the compulsory purchase hearing, negotiations may require to be undertaken during the hearing and also less desirable agreements reached to satisfy the hearing and the Planning Inspectorate.
- 4.11 Furthermore, the Statement of Reasons detailing the Working Area Width and the Easement/Demised Land Width and the exact rights required can be more easily agreed at the DCO application hearings if they have already been agreed with landowners, occupiers and third parties.
- 4.12 It is anticipated that Voluntary Agreements for the Pipeline Route and Above Ground Installations will be secured in advance of the DCO Application being submitted and during the Section 42 consultation stage. All Voluntary Agreements will be subject to confidentiality.

## 5. Other LDCOS Requirements – Funding Statement, Section 135 Consents and Crossing and Protective Provision Agreements

- 5.1 This Section details further consenting requirements, which form part of the LDCOS.
- 5.2 The appointed chartered surveyor will assist in preparation of the Statement of Reasons, which drives the rights granted as part of the Compulsory Purchase process and the Funding Statement. It is a requirement for a chartered surveyor to prepare and support a Funding Statement, which correctly details and supports all those payments required should compulsory purchase rights and purchase be granted. Ideally, this should be a replica of those voluntary agreements reach with landowners, occupiers and third parties. The DCO Applicant is required to provide justification of the figures proposed and confidence that the funding is available from the date the DCO is granted.
- 5.3 Section 135 Consents are specific consents required from government bodies such as the Crown Estate and the Environment Agency, where compulsory rights cannot be sought. Section 135 Consents should be granted at the same time as the landowner consents detailed in Section 4 above and will be based on a voluntary agreement secured by a chartered surveyor. They often contain technical details if required. This will be undertaken simultaneously with Section 4 above, albeit a 10 month period (as detailed in Appendix A) should be allowed.
- 5.4 There are a significant number of utilities along the proposed pipeline route and understandably, those statutory undertakers will be concerned regarding protection to their apparatus when the CO<sub>2</sub> pipeline is proposed to be constructed. It is likely that the affected statutory undertakers will object to the proposed pipeline route at the DCO hearings unless a Protective Provision document is secured prior to the hearings. A chartered surveyor will be employed to negotiate and secure, with the support of an engineer, relevant protective provision agreements, in advance of the DCO hearings. This will be undertaken simultaneously with Section 4 above. This will be undertaken simultaneously with Section 4 above, albeit a 10 month period should be allowed.

## 6. Summary

- 6.1 A Book of Reference is required as part of the DCO Application, to detail all landowner, occupier and third party right details split into Part 1, Category 1 and 2 (Qualifying Persons), Part 2, Category 3 (Third Party Claims) under Section 57 of the Planning Act 2008, Part 3, Easements or other Private Rights of Way proposed to be extinguished, suspended or disposed of, Part 4, Crown Estate Interests and Part 5, Special Category Land. A chartered surveyor will compile the Book of Reference with the assistance of a property lawyer.
- 6.2 The Book of Reference information will be prepared in 3-4 weeks by a Chartered Surveyor and be utilised as part of the Section 42 consultation process for landowners, occupiers and third parties, being named statutory stakeholders.
- 6.3 Compulsory Purchase and Compulsory Purchase Rights will be sought within the DCO Application, supported by a Statement of Reasons detailing the rights for the pipeline and above ground installation sought and a Funding Statement, with the Applicant committing to be in funds once the compulsory Purchase and Compulsory Purchase Rights have been granted.
- 6.4 Prior to the DCO Application being submitted, the project will secure Voluntary Survey Agreements and/or Options for Easements, Leases or Purchases for the Pipeline Route and Above Ground Installations for over 70% of the route with the employment of a chartered surveyor and property lawyer. This process should be for a period of no longer than 6 weeks for Survey Agreements and 8 Weeks for Options for Leases or Purchase.
- 6.5 Section 135 Consents with governmental bodies and Protective Provision Agreements with statutory undertakers for utilities will be sought prior to the DCO Application submission but it is accepted that this may continue during the DCO process.
- 6.6 The project is committed to providing the resources required to secure voluntary agreements with landowners, occupiers and third parties prior to submission of the DCO and certainly prior to any relevant hearings, such as the Compulsory Purchase hearings in accordance with the timelines detailed at Appendix A.

## Appendix A – Consenting Timelines

Action	Timeline	Duration
Land Referencing and Book of Reference	19th October 2020 to 13th November 2020	4 Weeks
Obtaining Survey Licences	16th November to 24th December 2020	6 weeks
Commencement of Section 42 Consultation and obtaining Landowner and Occupier Consents	1st February 2021 to 29th March 2021	8 Weeks
Section 135 Consents and Protective Provisions with utilities	1st February 2021 to 31 <sup>st</sup> October 2021	10 Months
DCO Submission (Provisional)	October 2021	

## **Appendix 2: Summary of HyNet Phase 1 Elements**

Project Element	Development?	Assumptions <sup>1</sup>	Comments
Newbuild pipeline	Yes  Exceeds 16.093km in length therefore an NSIP (by virtue S.21 PA2008 and cross reference to S.66 Pipe-lines Act 1962)		This would be the Principal Development (i.e. DCO required under Part 3 of the PA2008).
CO2 gathering network	Yes	Not an NSIP in itself but capable of comprising Associated Development (PA2008 S.115 and associated PINS guidance note)	Treated as AD in the Teesside application. PINS guidance note on AD refers to grid connections as potentially AD.
Future replacement / additional pipeline	Yes  Exceeds 16.093km in length therefore an NSIP (by virtue S.21 PA2008 and cross reference to S.66 Pipe-lines Act 1962)	Proposed use would not fall within definition of operation / works by Gas Transporter.  Does not form part of Phase 1 works.	
Change of use of existing pipeline	No	No above ground works to onshore pipes required. If so would this would comprise development but capable of comprising Associated Development. Offshore elements dealt with through MMO consenting process.	May need replacement valves. These are likely to comprise development but would be capable of comprising Associated Development.
Point of Ayr Compressor	Yes	Not an NSIP in itself but capable of comprising Associated	PA2008 and PINS Guidance Note on AD refers to the potential to oversize elements to facilitate future

<sup>1</sup>Assumes operator would not comprise a Gas Transporter

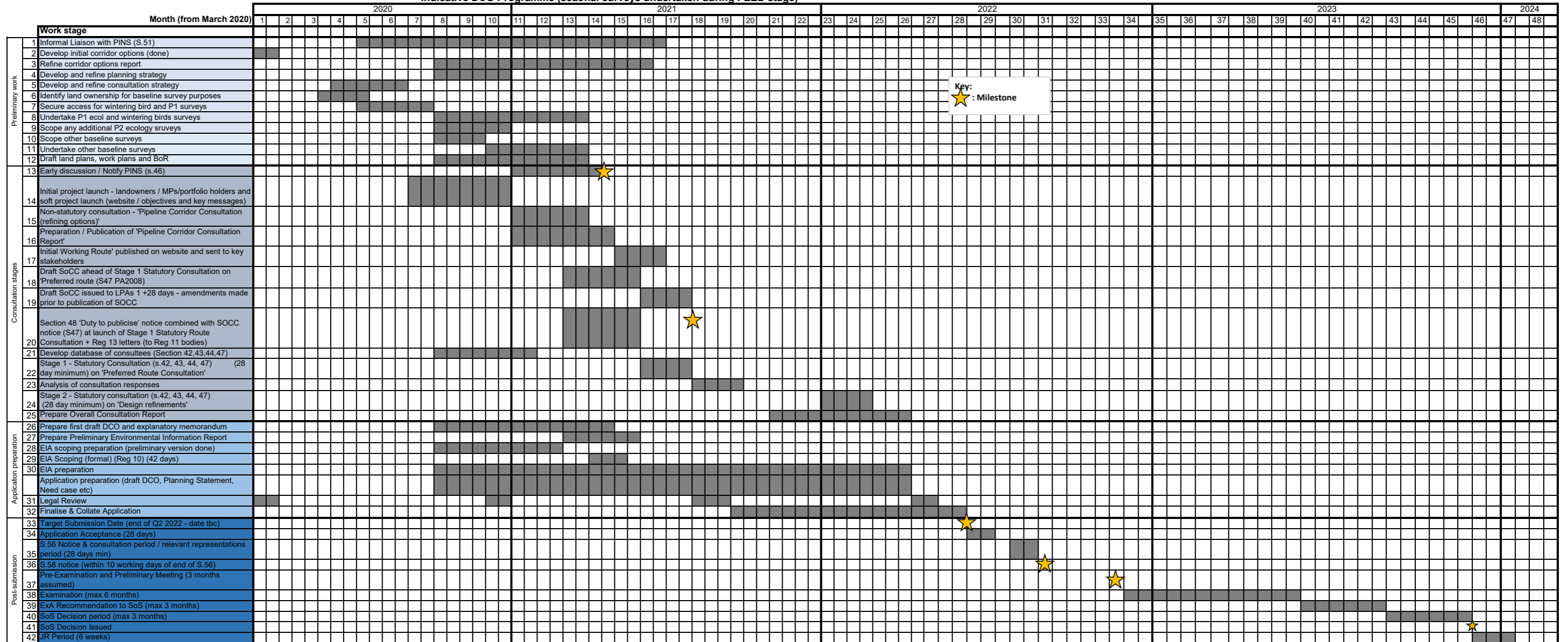


		Development (PA2008 S.115 and associated PINS guidance note)	connections and future proof. Therefore scope to include but would necessitate additional environmental / land ownership / consultation workstreams.
Stanlow Compressor	Yes	Not an NSIP in itself but capable of comprising Associated Development (PA2008 S.115 and associated PINS guidance note)	Need to define works sufficiently for the purpose of environmental assessment / consultation / the application. Treated as AD in the Teesside application.
Block valves / vent points	Yes	Potentially part of pipeline and therefore part of the NSIP. Also capable of comprising Associated Development (PA2008 S.115 and associated PINS guidance note)	Need to define works sufficiently for the purpose of environmental assessment / consultation / the application.
Modifications to Stanlow Refinery / Ince Fertilisers Plant	Yes	Capable of comprising Associated Development (PA2008 S.115 and associated PINS guidance note)	Need to define works sufficiently for the purpose of environmental assessment / consultation / the application.
Use of cavity(s) for storage	Yes (PA2008 S.32(2b))	Only if comprising 'underground storage' – assumed not to given the off-shore location.  Consented separately (via OGA licence). This consenting / licensing regime cannot be dealt with through the DCO <sup>2</sup> .	Teesside proposal only includes onshore elements, with offshore elements dealt with via 'offshore consenting regime'. As such it does not include the underground storage within the DCO application and refers to it being licenced through the OGA. Consented through the Energy Act 2008 (S.4(1)) / Gas Act 1965 S.4(1) MMO licensing exempted through Marine and Coastal Access Act 2009 (S.77 (1c))

<sup>2</sup> Under S.150 of PA2008 and Reg. 5 of The Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015

## **Appendix 3: High Level Programme**

Indicative DCO Programme (seasonal surveys undertaken during FEED stage)



## **Appendix 4: Extracts from Southampton to London DCO Application**

**Photograph 3.3: Typical Industry Standard Marker Post**



### **Installation of a Replacement Booster Pump at Alton Pumping Station**

3.2.20 The replacement pipeline would be routed through the existing Alton Pumping Station, where it would connect to existing infrastructure and a proposed new booster pump to continue fuel supply to London Gatwick Airport. There are currently three existing external pumps at Alton Pumping Station. The project includes installing a single replacement external pump near to the existing pumps. A small amount of additional above ground pipework would be installed for the tie-ins to the replacement pump.

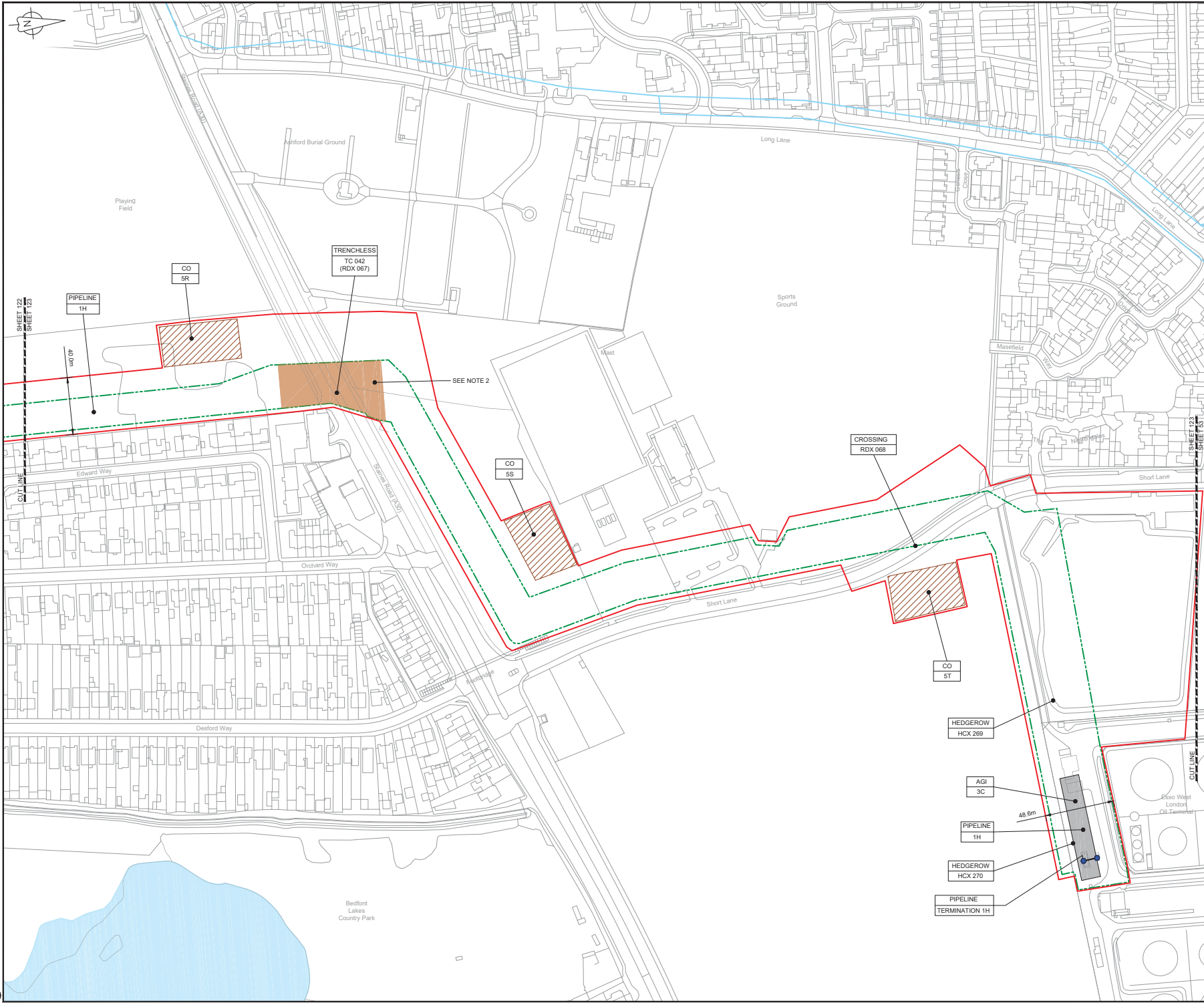
### **Modification of Existing Pigging Station at the West London Terminal Storage Facility**

3.2.21 The existing pigging station at the West London Terminal storage facility would be modified, including installation of a new PIG receiver. The works would include minor changes to alignment of pipework within the pigging station, renewal of equipment and some positional change. However, the existing pipework and PIG receiver would become redundant and would be removed, with the result that there would be little change to the location, layout, size and appearance of the pigging station when viewed from outside the fence line.

## **3.3 Description of Each Section**

3.3.1 To aid design development and environmental assessment, the route was divided into eight separate sections (Section A to Section H), as follows:

- Section A – Boorley Green to Bramdean
- Section B – Bramdean to South of Alton
- Section C – South of Alton to Crondall
- Section D – Crondall to Farnborough



LOCATION PLAN  
SCALE 1:500,000

- NOTES**
1. THIS DRAWING IS IN METRES UNLESS STATED OTHERWISE.
  2. TRENCHLESS CROSSINGS ARE INDICATIVE ONLY.

- LEGEND**
- ORDER LIMITS
  - LIMITS OF DEVIATION
  - NARROW WORKING AREA (NW)
  - TRENCHLESS CROSSING (TC)
  - WATER BODIES
  - ABOVE GROUND INSTALLATION (AGI) / VALVE (VA) / PRESSURE TRANSDUCER (PT)
  - COMPOUND (CO)
  - TREE PRESERVATION ORDER (TPO)
  - DESCRIPTION
  - ID or WORK NUMBER (if applicable)
  - COMMENCEMENT / TERMINATION OF WORKS (COMMENCEMENT = OPEN, TERMINATION = CLOSED)

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CD	03/05/19	DDC SUBMISSION	PC	JA	SC	PH
Rev.	Rev. Date	Purpose of revision	Drawn	Checked	Rev'd	Approved

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Drawing title:  
**GENERAL ARRANGEMENT SHEET 123  
REGULATION 5 (2)(O)**

Drawing status: **Fit for Stage Approval**

Scale	1:1250	DO NOT SCALE
Client No.	B2325300	Rev
Drawing number		Rev

Drawing number: **B2325300-JAC-000-CIV-DRG-000623**

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