

Written Statement of Secondary Consents

This written statement sets out the elements of the Proposed Development which require a secondary consent in accordance with the Developments of National Significance (Specified and Prescribed Secondary Consents) (Wales) Regulations 2016.

The Proposed Development will be constructed on land already owned by the Applicant as set out on the site plans.

Diversion of Footpath 56 under section 247 of the TCPA 1990

A secondary consent is required by way of an application pursuant to Section 247 of the Town and Country Planning Act 1990, under Schedule 1 to the 2016 Regulations, in order to permanently divert Footpath 56 (301/56/20) to provide alternative access to connect up to Footpath 408/74/50.

Section 247 is the general provision under the Town and Country Planning Act 1990 which permits the stopping up of “highway”. Section 247 can be used to stop public rights of way and footpaths (such as in this instance) as the Town and Country Planning Act 1990 definition relies on the Highways Act 1980 definition, which is broad and relies upon the common law definition of highway. At common law, a highway is a common route which people can pass and repass along as frequently as they wish, without hindrance and without charge. It is not restricted to routes used by vehicles. The Highways Act directly reflects this within its definition for “footpath” being “a **highway** over which the public have a right of way on foot only, not being a footway”. The Secretary of State has utilised section 247 to make orders for the closure of footpaths and other public rights of way in prior scenarios.¹

This diversion is required as the design of the Proposed Development proposes for the Carbon Capture Storage Plant to be constructed on the current alignment of the Public Footpath and requires the permanent diversion of the footpath to the south of the Site.

The effects of the permanent diversion of Footpath 56 (301/56/20) have been addressed in full through the suite of accompanying technical work which supports the DNS application, including the draft Environmental Statement. As such, these aspects of the proposal are wholly addressed through the submitted application and may be considered as an integral part of the Proposed Development.

¹ See *Clifton and Hotwells Improvement Society v Secretary of State for Transport* [2005] All ER (D) 239 (Oct); *Regina (Network Rail Infrastructure Ltd) v Secretary of State for Environment, Food and Rural Affairs* [2017] PTSR 1662.