

Our Ref: ANC/BM/209087/00014
Your Ref: EN010097

VPI Immingham OCGT Project Team
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By Post and Email

imminghamOCGT@planninginspectorate.gov.uk

28 August 2019

Dear Sirs

Planning Act 2008 - Section 89 and the Infrastructure Planning (Examination Procedure) Rules 2010 - Rule 8

VPI Immingham OCGT Project (the "Project")

Application by VPI Immingham B Ltd (the "Application") for an Order Granting Development Consent for the Project

Our Client: Air Products (BR) Limited
Reference Number: IMMI-S57002

We act on behalf of Air Products (BR) Limited.

We refer to the Application and the Rule 8 letter regarding the Examination Timetable and Procedure.

1 NOTICE OF WISH TO SPEAK AT HEARINGS

On behalf of our client, we hereby give notice of the following:

- 1.1 Our client wishes to speak at the Issue Specific Hearing on the draft Development Consent Order;
- 1.2 Our client wishes to speak at the Issue Specific Hearing on Environmental Matters;
- 1.3 Our client wishes to speak at the Compulsory Acquisition Hearing; and
- 1.4 Our client wishes to speak at an Open Floor Hearing.

We understand that agendas for each of the above hearings have not yet been released and, therefore, reserve all of our client's rights in respect of the hearings listed above pending the release of the hearing agendas.

WKS/290567160.2

2 ACCOMPANIED SITE INSPECTION

Further and in addition to the above, we hereby give notice that our client wishes to attend an Accompanied Site Inspection.

As set out in our client's Consultation Response, our client is a world leading Industrial Gases company. Its core industrial gases business provides atmospheric and process gases and related equipment to manufacturing markets. It is also the world's leading supplier of liquefied natural gas process technology and equipment.

In the area affected by the Project, our client is concerned with the supply of gas to installations and forms a fundamental part of the local energy industry.

Accordingly, our client has interests in a number of gas pipelines running through, adjacent to and in the vicinity of the area of land affected by the Project.

We enclose plans, photographs and drawings setting out the interests held by our client in the local area (this was enclosed with our client's Section 42 Response). As is noted from the enclosed plans etc our client has the following interests within the relevant area:

- 2.1 A 4-inch nitrogen pipeline (in area 1 and 2, shown with the solid blue line on the attached plan);
- 2.2 A 6-inch oxygen pipeline (in area 1, shown with a dotted black line on the attached plan); and
- 2.3 An 8-inch (reducing to 6-inch) oxygen pipeline (in area 2, shown with a dotted black line on the attached plan).

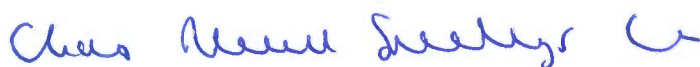
These rights are established and must be continued to enable our client to continue to supply the facilities and installations that are being supplied with oxygen and nitrogen gas. Further, to the extent that the land is acquired by the Applicant (or any associated entity), further suitable protective provisions must be provided to ensure that the consistency of supply, safety of use and maintenance of the infrastructure be safeguarded. We enclose a further copy of our client's Section 42 Response.

In light of the above, we therefore propose that an Accompanied Site Inspection take place along the areas of land identified above. We reserve our client's right to raise further and additional justifications relating to the Accompanied Site Inspection in due course.

Should you have any questions arising from this letter or the issues raised therein then please do not hesitate to contact our above reference, Ms Crabbe.

Thank you in advance for your assistance in this matter.

Yours faithfully

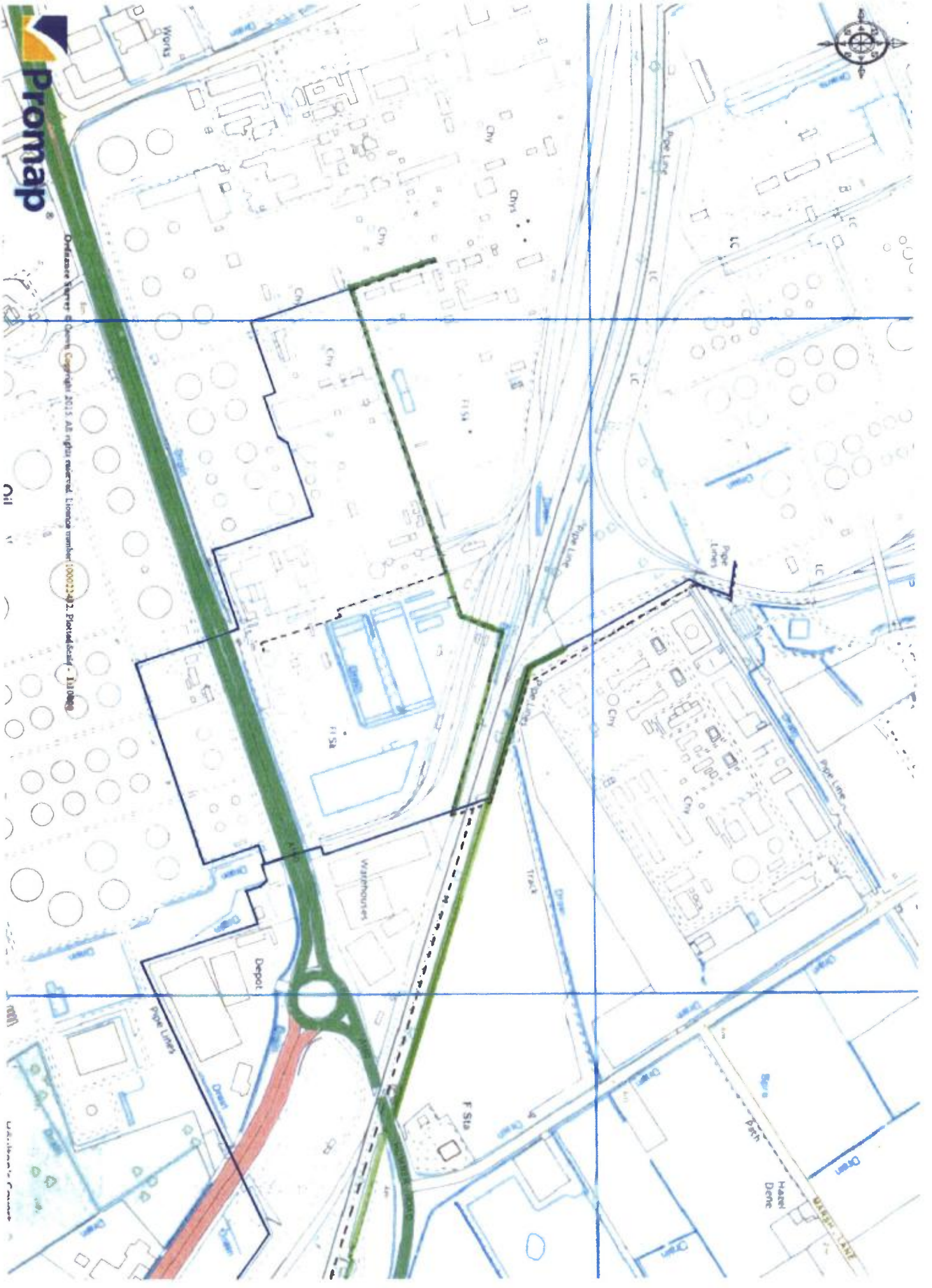


Charles Russell Speechlys LLP





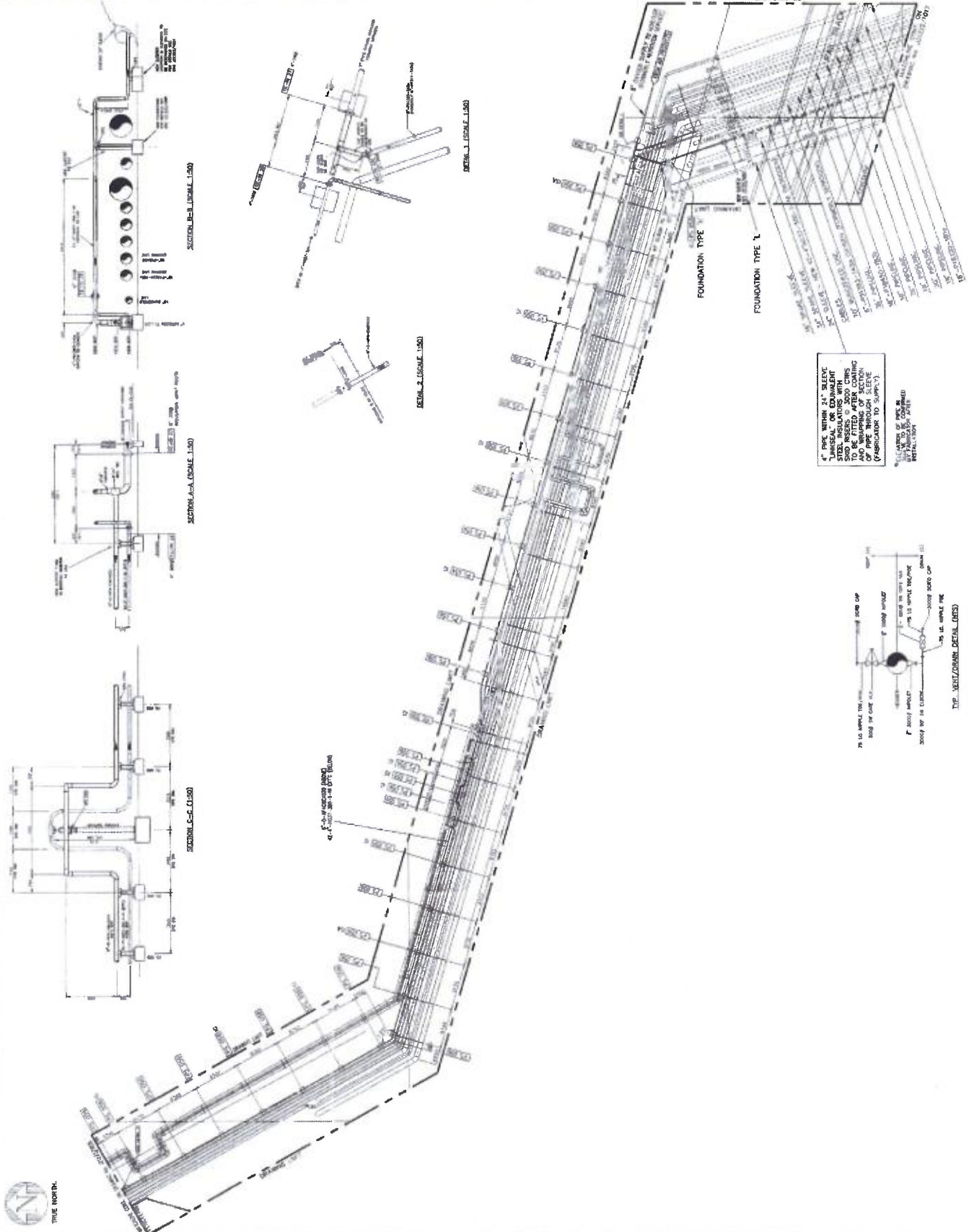
Orthorectified imagery of Queen's Copyright © 2015. All rights reserved. License number: 100032492. Postal code: -30 080.



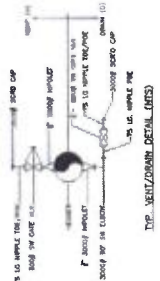
Oil

10011

University Campus



4" PIPE WITHIN 24" SLEEVE
 SHALL BE INSTALLED WITH
 STEEL INSULATORS WITH
 SAND RESERVE TO 2000 CHRS
 AND WRAPPING OF SECTION
 OF PIPE THROUGH SLEEVE
 (REFER TO DRAWING)



TYP. VERTICAL DETAIL (CHS)

NOTES

1. ALL DIMENSIONS ARE IN MILLIMETERS UNLESS OTHERWISE SPECIFIED.
2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
3. ALL DIMENSIONS ARE TO CENTER UNLESS OTHERWISE SPECIFIED.
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CONTRACTOR TO BE RESPONSIBLE FOR CONFIRMING DIMENSIONS & ANGLES OF ALL OFFSETS & DEVIATIONS ON SITE PRIOR TO FABRICATION

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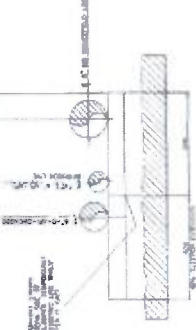
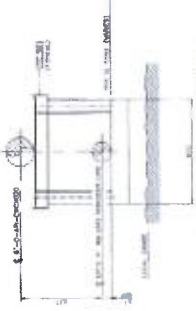
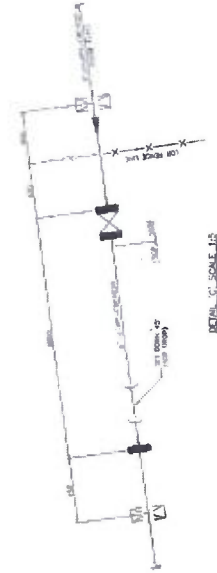
ITEM NO.	DESCRIPTION	ANTENNA
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ONLINE JOB No. J21222

OXYGEN/NITROGEN TO COMCO ROAD PLOT
 PIPING ARRANGEMENT PROSPER ROAD PLOT

ON LINE
 DESIGN & ENGINEERING LIMITED

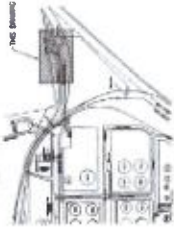
DATE: 12/22/2018
 DRAWING No. J21222/1018



AIR PRODUCTS PRODUCTS

ON LINE

DESIGN & ENGINEERING LIMITED
 AIR PRODUCTS INC.
 321227 1026
 Drawing No. 321227/1026

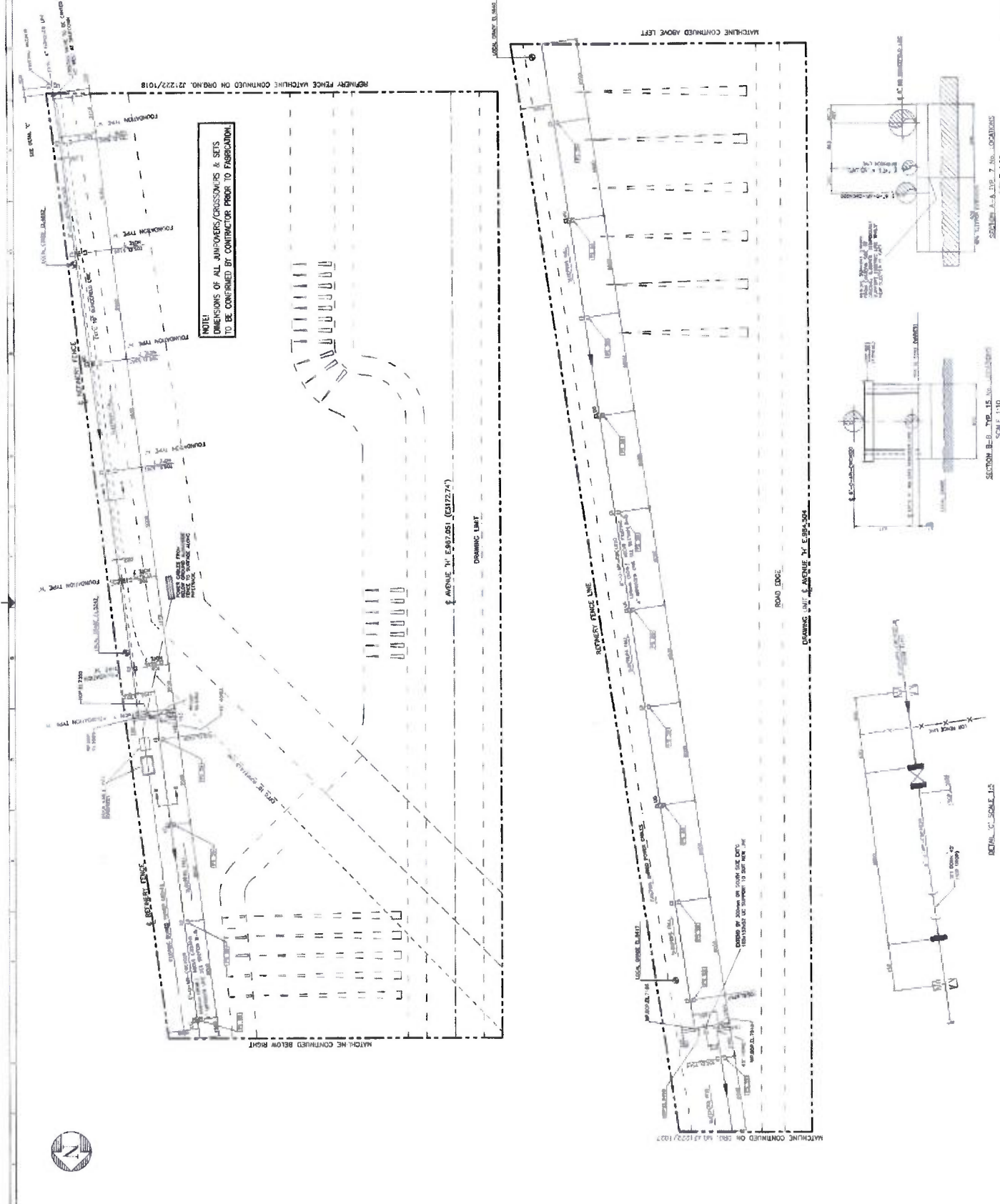


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DRAWING UNIT, E, AVENUE 'N', E. 884-504



VPI Immingham OCGT Project ('the Project')

Development Consent Order Section 42 Consultation Response

1.0 Introduction

- 1.1 These representations are made on behalf of Air Products (BR) Limited ('APBR'), which has interests in and in the vicinity of the area proposed for a Development Consent Order ('DCO').
- 1.2 APBR is a Category 1 statutory consultee as defined by Section 44 of the Planning Act 2008. To deliver the Project as currently proposed, the Applicant will have to acquire land and rights that has the potential for conflicting with and compromising the security of existing pipes and associated infrastructure owned and/or used by APBR in connection with its pre-existing business activities. APBR understands that currently the Applicant is intending to acquire land and rights permanently.
- 1.3 APBR has a number of serious concerns about the Project as currently proposed and believes the consultation documentation provided by the Applicant falls short of demonstrating that the Project will be delivered in a way that supports the needs of the Project whilst not compromising or risking the integrity and/or maintenance needs of APBR's own infrastructure and/or such infrastructure in respect of which it has rights. Further, it is not considered that the compulsory acquisition of land in the terms proposed is proportionate, or even necessary, nor that it properly accounts for the existence of the infrastructure belonging to and/or otherwise used by APBR. This Consultation Response explains those concerns, raises a number of currently unanswered questions over the technical aspects of the Project and suggests alternative options. The Consultation Response is set out under the following headings:
- i) An explanation of APBR's interests in the locality.
 - ii) The impact of the Project on APBR's interests.
 - iii) Questions relating to the technical/engineering aspects of the Project as currently proposed.
 - iv) Engagement.
- 1.4 Notwithstanding the contents of this consultation response, APBR (and/or any of its associated entities) reserves the right to raise further and additional issues, objections and questions in relation to the Project and/or otherwise amend this Response as the consultation and Development Consent Order process progresses.

2.0 APBR's Interests

- 2.1 APBR forms part of the wider Air Products business (parent, Air Products Plc) and is a world-leading Industrial Gases company. Its core industrial gases business provides atmospheric and process gases and related equipment to manufacturing markets, including refining and petrochemical, metals, electronics, and food and beverage. It is also the world's leading supplier of liquefied natural gas process technology and equipment.
- 2.2 In the area affected by the proposed Project, APBR is concerned with the supply of gas to local installations and forms a fundamental part of the local energy industry. APBR supplies oxygen and Nitrogen, via pipelines, to both refineries which are critical to their operation.
- 2.3 Accordingly, APBR has interests in a number of gas pipelines running through, adjacent to and in the vicinity of the redline boundary shown within the Project consultation documents (see Figure 3.1A to the said documents as an example of the redline).
- 2.4 Attached to this Consultation Response is a plan setting out the interests held by APBR in the local area (along with (i) a plan showing areas 1 and 2 referred to below); (ii) an aerial photograph annotated to show the current layout of the pipelines used by APBR; and (iii) further drawings showing the piping arrangement (drawings J21222/1026 rev. 2 and J21222/1018 rev 3)). As can be noted from that plan, APBR has the following interests in that area:
- A 4-inch nitrogen pipeline (in area 1 and 2, shown with a solid blue line on the attached plan); and
 - A 6-inch oxygen pipeline (in area 1, shown with a dotted black line on the attached plan). An 8-inch (reducing to 6-inch) oxygen pipeline (in area 2, shown with a dotted black line on the attached plan)
- 2.5 The basis of those rights differs depending on the pipeline and the freehold ownership of the land through which the pipelines pass. However, those rights are established and must be continued to enable APBR to continue to supply the facilities and installations that are being supplied with oxygen and nitrogen gas.
- 2.6 In addition, not only must the Project ensure that the pipelines can continued to be used by APBR but, to the extent that land is acquired compulsorily by VPI Immingham B Limited (or any associated entity) and/or is due to be granted an legal interest in land through which the said pipelines pass, APBR requires that it is granted sufficient rights and interest to maintain the use already established. Further suitable protective provisions must be provided to ensure that the consistency of supply, safe use and maintenance of the infrastructure can be safeguarded.

3.0 The impact of the Project on APBR's interests

3.1 The Project, as currently proposed, will involve significant works. The proposed DCO will, if approved, provide the necessary authorisations and consents for the construction, operation and maintenance of the proposed development including:

- The power station itself (a new gas-fired power station of up to 299 Megawatts gross electrical output);
- The construction and operation of a new underground pipeline to convey gas to the new power station from a new tie in to an existing pipeline located to the south of the existing CHP plant;
- The construction of a new Above Ground Installation to be located at the tie-in of the new to the existing pipeline to the south of the existing CHP plant;
- Temporary construction laydown;
- Service and utility connections to the existing CHP plant; and
- New electrical connection to the existing National Grid Substation located on the existing CHP plant site to facilitate export of electricity generated to the National Grid.

3.2 In order to undertake these works the Applicant will also need to:

- Compulsorily acquire the existing gas pipeline currently used for fuelling the existing CHP plant;
- Construct a new gas pipeline in an area (identified in Figure 3.1 to the Consultation documents) in which existing pipelines are located, such pipelines being used by APBR for the purposes of gas supply to both refineries (see paragraph 2.2 hereof);
- Exercise rights to an undisclosed option to take a lease of what is described in the Consultation documents as "the Main OCGT Power Station Site" (although the precise limits both in terms of geographical extent and rights associated with the said lease are entirely unspecified); and
- Acquire rights of access, both temporarily in order to undertake construction works and permanently for future access to pipelines and the power station (and associated infrastructure).

3.3 The proposed works and the acquisition of land and rights will have a significant effect on APBR's interests and operations in both the short and long term. In the short term the digging of trenches for cables and the construction of the buildings is proposed to commence in 2021 and last for a period of circa 21 months¹ with the associated uncertainty (not properly addressed in the Consultation) as to the impact on the existing pipelines used by APBR and in respect of which APBR has rights. In the longer term, it is wholly unclear as to the impact that the Project may have on the ability of APBR to continue its operations safely and economically (bearing in mind the stated intention that the Project would remain operational for at least 40 years).

3.4 It is of highly significant concern that the Project involves use of existing gas pipelines and the construction of a new gas pipeline (or pipelines) in close proximity to other gas pipelines (that are in regular use by APBR) yet only ten paragraphs of the entire Consultation is devoted to gas connections

¹ See the Preliminary Environmental Information Report - Para 4.1.6 of Volume 1 Chapter 4: The Proposed Development

and pipelines. Any other reference to these issues either refers back to those ten paragraphs or repeats much of what is set out therein.

- 3.5 Of even greater concern is that no mention is made of the use of the existing infrastructure by APBR (or any other party), or the proximity of that existing infrastructure to the new infrastructure proposed as part of the Project. Further, the Consultation documents do not, whether adequately or at all, address the use of the areas above ground under which the existing pipelines pass or the proposed use of the land over which the existing pipelines pass.
- 3.6 Indeed, notwithstanding that the Phase 2 Geotechnical & Geo-environmental Interpretative Report prepared by AECOM and dated 31 August 2018 refers, at paragraph 9.2.3, to the likelihood of underground obstructions and the need to identify those obstructions (and despite the fact that at least part of APBR's interest is registered at HM Land Registry under title number HS354412), it is of concern that no reference is made to the existing infrastructure whatsoever in the main Consultation documents (whether as regards how it is proposed the said infrastructure will be affected or as to how the effects will be attenuated). This is particularly the case given that the risk profile attributed to the risk of such infrastructure being a factor was assessed as 16 (or very high risk, unacceptable and there being a need to re-examine activities to provide lower risk) by AECOM.
- 3.7 It follows, therefore, that APBR is unable in any respect to properly address the likely impact of the proposals on its operations both in terms of maintaining the existing service provided by APBR and the need to ensure that suitable permissions and protection is provided to the existing infrastructure.
- 3.8 APBR therefore calls on the Applicant to produce the information (whether technical or otherwise) necessary to enable APBR to properly assess the potential impact of the Project. APBR reserves its right to add to or otherwise amend this Consultation Response upon receipt of such information.

4.0 Questions related to the technical/engineering aspects of the Project

- 4.1 Set out below are a number of questions which APBR believes that it is necessary for the Applicant to answer before it can justify the Project.
- 4.2 For both sections 1 and 2 APBR pipelines (see plans attached), please confirm the proposed construction activity both in terms of method of construction including the proposed quantity of traffic movements, whereabouts and proposed (or potential) excavations in proximity to the said pipelines.
- 4.3 With respect to your new pipelines please confirm whether under or overground, with depths (if applicable) and anticipated interaction with existing infrastructure.
- 4.4 In support of the Applicant's answers in respect of the above, APBR requests full details, with appropriate plans, sections and technical specifications and reports setting out the proposed works in sufficient detail so as to enable APBR to properly understand (a) what is proposed by the Applicant as will affect APBR and (b) the threat to APBR's existing infrastructure by the said proposals.

5.0 Engagement with APBR

- 5.1 To date, the Applicant has provided limited information to APBR as is highlighted in this Response. Significant further information is required in order for APBR to be able to establish (a) exactly what is proposed as part of the Project (b) the impact of the proposals on the existing infrastructure used by APBR (c) how the proposals may impact on the ownership of the existing infrastructure used by APBR and (d) what further protection, indemnities and consents might be required before APBR can be in a position to determine whether or not to oppose any DCO application.
- 5.2 Given that, and given the Applicant's obligations of consultation and engagement, the Applicant is called to now provide that information and to meet with APBR and its representatives with a view to enabling APBR to better appreciate how the Applicant proposes to address APBR's concerns.
- 5.3 Further, and in any event (and whether the proposed DCO is made or not), APBR seeks an indemnity in respect of all costs (including, but not limited to, professional fees, disbursements and VAT charged or chargeable thereon, whether incurred within or externally from APBR's business) incurred in connection with this consultation response and the DCO generally. It appears that the proposed DCO would include, if granted, the compulsory acquisition of the land under and over which the pipelines in respect of which APBR has interests (and potentially the pipelines themselves). Accordingly, APBR considers itself to be an objector in relation to a compulsory acquisition request for the purposes of the proposed DCO application.
- 5.4 APBR have accordingly now instructed its solicitors Charles Russell Speechlys LLP in order to protect its interests.

Charles Russell Speechlys LLP

For and on behalf of Air Products (BR) Limited

30 November 2018