

**From:** [REDACTED]  
**To:** [Immingham OCGI](#)  
**Subject:** VPI Immingham B Ltd - Deadline 2 submissions  
**Date:** 10 September 2019 16:54:33  
**Attachments:** [REDACTED]



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Dear Ewa/Tracey,

Please find attached the Environment Agency's submissions for Deadline 2.

Kind regards,  
Annette

**Annette Hewitson** | Principal Planning Adviser  
**Lincolnshire & Northamptonshire Area**  
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We have recently published new webpages for [LPAs, developers](#) and [Neighbourhood Planning Groups](#) giving clarification on our planning consultation role. Please refer to this to check if we can provide you with advice on your development proposals. For developments in areas at risk of flooding, please refer to our new [Flood Risk Assessment checklist](#).

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**VPI Immingham B Ltd**  
Land to the West of Rosper Road,  
South Killingholme, Lincolnshire

**Planning Inspectorate Reference: EN010097**

**Detailed Written Representations by  
the Environment Agency  
Unique Reference Number: 20022372**

**10 September 2019**

## **Summary**

The Environment Agency made a Relevant Representation to the proposal by VPI Immingham B Ltd to construct, operate and maintain a new Open Cycle Gas Turbine (OCGT) power station with a capacity of 299 megawatts (MW) gross output and other associated works.

We have continued to work with the Applicant in respect of the issues of concern raised in our Relevant Representation dated 20 June 2019. The purpose of these Written Representations is to provide an update on our Relevant Representation and provide further information where appropriate.

We can advise that the issues/concern relating to foul water disposal have now been resolved. We are satisfied that all issues that fall within our remit have been adequately assessed, and/or appropriate mitigation has been secured through requirements in the draft Development Consent Order.

There are no outstanding areas of concern and the Environment Agency has no objection to the proposal.

## **1.0 Introduction**

- 1.1 The Environment Agency is an executive non-departmental public body established under the Environment Act 1995. It is an adviser to Government with principal aims to protect and improve the environment, and to promote sustainable development. It plays a central role in delivering the environmental priorities of central government through its functions and roles. It is also an adviser to local decision makers in its role as a statutory consultee in respect of particular types of development, as listed in Schedule 4 of the Development Management Procedure Order 2015. For the purposes of this Development Consent Order (DCO) application, it is a statutory consultee and an interested party.
- 1.2 The Environment Agency takes action to conserve and secure proper use of water resources, preserve and improve the quality of rivers, estuaries and coastal waters and groundwaters through pollution control powers and regulating discharge consents. We have regulatory powers in respect of waste management and remediation of contaminated land designated as special sites. We also encourage remediation of land contamination through the planning process.
- 1.3 The Environment Agency is the principal flood risk management operating authority. It has the power (but not a legal obligation) to manage flood risk from designated main rivers and the sea. The Environment Agency is also responsible for increasing public awareness of flood risk, flood forecasting and warning and has a general supervisory duty for flood risk management. As of 2008 the Environment Agency also has a strategic overview role for all flood and coastal erosion risk management.
- 1.4 The Environment Agency is the competent authority for England for the purposes of the Water Framework Directive, in conjunction with (as necessary) the Secretary of State (for DEFRA). Regulation 3(1) of The Water Environment (Water Framework Directive)(England and Wales) Regulations 2003 requires that the Secretary of State and the Environment Agency must exercise their relevant functions so as to secure compliance with the requirements of the Directive.
- 1.5 The Environment Agency also has statutory duties under the Environment Act 1995 (s6) to generally promote the conservation of fauna which are dependent on an aquatic environment to the extent it considers desirable and to 'maintain, improve and develop' salmon fisheries, trout fisheries, freshwater fisheries and eel fisheries in England.
- 1.6 We also issue Environmental Permits under the Environmental Permitting (England and Wales) Regulations 2016, which covers water

discharge consenting, groundwater authorisations, radioactive substances regulation authorisations and waste permitting activities.

- 1.7 On 20 June 2019 the Environment Agency (the EA) made a Relevant Representation to the proposal by VPI Immingham B Ltd (the Applicant) to construct, operate and maintain a new Open Cycle Gas Turbine (OCGT) power station with a capacity of 299 megawatts (MW) gross output and other associated works on land to the west of Rosper Road, South Killingholme, Lincolnshire. The purpose of these Written Representations is to provide an update on the summaries contained in our Relevant Representation.

## **2.0 Foul water drainage**

- 2.1 We have continued to advise the Applicant in respect of the information we require to be satisfied as to whether or not it is feasible for the development to connect to a foul water drainage system operated by the public sewerage undertaker, Anglian Water Services.
- 2.2 The Applicant has agreed to include the amendment requested to Requirement 10 in the Development Consent Order (DCO) to secure the submission of this information prior to the main development commencing; the agreed wording is included in the Statement of Common Ground (paragraph 4.2.9) between the EA and the Applicant and included below for information:

### ***Requirement: Foul water drainage***

- (1) No part of the authorised development may commence, save for the permitted preliminary works, until full details of a scheme, for the connection, conveyance, treatment and disposal of foul water drainage on and off site has been submitted to, and after consultation with the Environment Agency and Anglian Water, approved by the relevant planning authority.
- (2) If it is demonstrated as part of the information submitted pursuant to sub-paragraph (1) that it is not practicable or reasonable to connect to a mains system, an alternative strategy for the provision and implementation of wastewater treatment shall be submitted to and, after consultation with the Environment Agency and Anglian Water, approved by the relevant planning authority. Any non-mains drainage proposal must include a management and maintenance plan to ensure that it will not cause pollution to the water environment.
- (3) The schemes approved pursuant to sub-paragraph (1) and (where relevant) sub-paragraph (2) must be implemented and maintained throughout the operation of the authorised development unless otherwise agreed with the relevant planning authority.

2.3 The inclusion of this Requirement will ensure that the most sustainable method of foul drainage is incorporated into the development; subject to its inclusion, we consider that this issue is now resolved.

### **3.0 Land contamination**

3.1 As advised in our Relevant Representation, Chapter 11, and Appendices 11A-11D contains sufficient information in respect of the assessment of risk for controlled waters and the inclusion of Requirement 12 of the DCO is satisfactory for protecting these during development.

3.2 We note that in the Examiner's Written Questions (Q1.3.18) the issue of piling and penetrative foundation design has been raised (in respect of Requirement 20). You will note that the EA is a consultee to Requirement 20. This is a Requirement that the EA requested following consultation under Section 42 of the Planning Act 2008 (on the Preliminary Environmental Information Report (PEIR)).

3.3 The Applicant has advised us that, until the detailed design is undertaken, they cannot rule out the possibility of needing to use penetrative piling methods during construction. Piling using penetrative methods can result in risks to potable water supplies from, for example pollution/turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways.

3.4 It is, therefore, our view that the inclusion of Requirement 20 is necessary to ensure that if piling is required then an adequate risk assessment will be undertaken. We will then be able to advise on appropriate methods to be used to ensure the works will not impact groundwater resources, and to ensure compliance with section 5.15 (Water Quality and Resources) of the Overarching National Policy Statement for Energy (EN-1).

### **4.0 Flood Risk**

4.1 As confirmed in our Relevant Representation, the issue of potential tidal and fluvial flood risk, to and from the development, has been adequately assessed and an appropriate Requirement (no. 11) has been included to secure mitigation.

4.2 However, we would point out that our Relevant Representation contained two typos in paragraph 5.4, in our references to Requirement 12 – this should have read Requirement 11. Accordingly, I confirm that we wish to be removed as a consultee to Requirement 11(6).

### **5.0 Environmental Permit**

5.1 We can advise that an application for a permit, under Schedule 1.1 Part A(1)(a) of the Environmental Permitting Regulations 2016, to operate the proposed facility was received by the Environment Agency and 'duly made' on 25 April 2019.

- 5.2 The information contained in the application has been reviewed, including the air quality assessment, and is considered satisfactory. The application was published for public consultation on 21 August 2019 on our website. The Appendix 11 (Habitats Regulation Assessment) document has also been sent to Natural England for consultation. The deadline for receipt of consultation comments is 19 September 2019.
- 5.3 Following consideration of any consultation responses received, we are aiming to issue a decision on the permit application during October.

We reserve the right to add to these representations; including requests for DCO Requirements should further information be forthcoming or any amendments to the proposal occur during the course of the examination, on issues within our remit.