

VPI Immingham OCGT Project

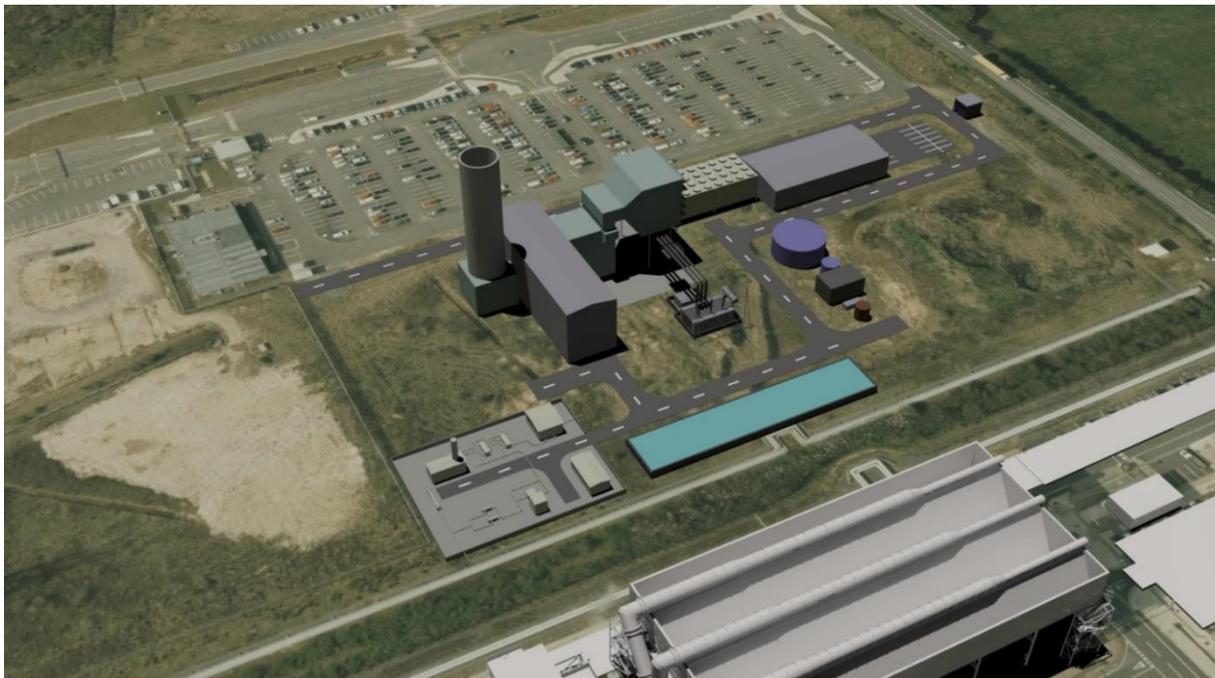
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The Immingham Open Cycle Gas Turbine Order

Land at and in the vicinity of the existing VPI Immingham Power Station, South Killingholme, North Lincolnshire, DN40 3DZ

The Applicant's Written Submission of Oral Case – CA Hearing

Examination Deadline 3



Applicant: VPI Immingham B Ltd

Date: October 2019

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GLOSSARY

Abbreviation	Description
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Access	Work No. 2 – access works comprising access to the OCGT Power Station Site and access to Work Nos. 3, 4, 5 and 6;
Access Site	The land required for Work No.2.
AGI	Above Ground Installation – installations used to support the safe and efficient operation of the pipeline; above ground installations are needed at the start and end of a gas pipeline and at intervals along the route.
Applicant	VPI Immingham B Ltd
Application	The Application for a Development Consent Order made to the Secretary of State under Section 37 of the Planning Act 2008 in respect of the Proposed Development, required pursuant to Section 31 of the Planning Act 2008 because the Proposed Development is a Nationally Significant Infrastructure Project under Section 14(1)(a) and Section 15 of the Planning Act 2008 by virtue of being an onshore generating station in England of more than 50 Megawatts electrical capacity.
Application Documents	The documents that make up the Application (as defined above).
CHP	Combined Heat and Power – A technology that puts to use the residual heat of the combustion process after generation of electricity that would otherwise be lost to the environment.
CTMP	Construction Traffic Management Plan – a plan outlining measures to organise and control vehicular movement on a construction site so that vehicles and pedestrians using site routes can move around safely.
CWTP	Construction Workers Travel Plan – a plan managing and promoting how construction workers travel to a particular area or organisation. It aims at promoting greener, cleaner travel choices and reducing reliance on the private car.
dB	decibel
DCO	A Development Consent Order made by the relevant Secretary of State pursuant to The Planning Act 2008 to authorise a Nationally Significant Infrastructure Project. A DCO can incorporate or remove the need for a range of consents which would otherwise

Abbreviation	Description
	be required for a development. A DCO can also include powers of compulsory acquisition.
EA	Environment Agency – a non-departmental public body sponsored by the United Kingdom government's Department for Environment, Food and Rural Affairs (DEFRA), with responsibilities relating to the protection and enhancement of the environment in England.
EH	English Heritage – (now Historic England) – a non-departmental public body of the British Government responsible for heritage protection and management of a range of historic properties.
EHO	Environmental Health Officer – practitioners responsible for carrying out measures for protecting public health, including administering and enforcing legislation related to environmental health.
EIA	Environmental Impact Assessment – a term used for the assessment of environmental consequences (positive or negative) of a plan, policy, program or project prior to the decision to move forward with the proposed action.
Electrical Connection Site	The land required for Work No.5.
ES	Environmental Statement – a report in which the process and results of an Environmental Impact Assessment are documented.
Existing AGI	The exiting AGI within the Existing VPI CHP Site.
Existing AGI Site	The land comprising the exiting AGI within the Existing VPI CHP Site.
Existing Gas Pipeline	An existing underground gas pipeline owned by VPI LLP connecting the Existing AGI Site to an existing tie in the National Grid (NG) Feeder No.9 located to the west of South Killingholme.
Existing Gas Pipeline Site	The land comprising the Existing Gas Pipeline and a stand-off either side of it.
Existing VPI CHP Plant	The existing VPI Immingham Power Station. This facility is a gas-fired combined heat and power ('CHP') plant near Immingham providing steam and electricity to the neighbouring refineries and electricity to the National Grid.
Existing VPI CHP Plant Site	The land comprising the Existing VPI CHP Plant, located immediately to the south of the Main OCGT Power Station Site.
Flood Zone 1	Land with an Annual Exceedance Probability of less than 0.1% risk from fluvial flooding.
Flood Zone 2	Land with an Annual Exceedance Probability of between 0.1% and 1% risk from fluvial flooding.
Flood Zone 3a	Land having a 1 in 100 or greater annual probability of river flooding or land having a 1 in 200 or greater annual probability of sea flooding.
Flood Zone 3b	An area defined as the functional floodplain, that the area where water has to flow or be stored in the event of a flood. Land which would flood with a 1 in 20 (5%) annual probability or greater in any year, or is designed to flood in a 0.1% event should provide the starting point for designation of Flood Zone 3b.

Abbreviation	Description
FRA	Flood Risk Assessment – the formal assessment of flood risk issues relating to the Proposed Development. The findings are presented in an appendix to the Environmental Statement.
Gas Connection	Work No. 4 – the new underground and overground gas pipeline
Gas Connection Site	The land required for Work No.5.
GCN	Great Crested Newts
GW	Gigawatts – unit of power.
HA	Highways Agency (now known as Highways England) – government owned company responsible for managing the strategic road network in England.
ha	Hectare – unit of measurement.
HE	Historic England – an executive non-departmental body of the British Government tasked with protecting the historical environment of England.
HRA	Habitats Regulations Assessment – the assessment of the impacts of implementing a plan or policy on a Natura 2000 site.
km	Kilometre – unit of distance.
Local Nature Reserve or LNR	A non-statutory site of local importance for wildlife, geology, education or public enjoyment.
LPA	Local Planning Authority
LSE	Likely significant effect, a term used in the ES to describe when effects on a receptor are predicted to be significant
LVIA	Landscape and Visual Impact Assessment
Lw	Sound Power Level
LWS	Local Wildlife Site
m	Metres – unit of distance.
MW	Megawatts – unit of energy.
NATA	New Approach to Appraisal
NEILDB	North East Lincolnshire Local Drainage Board
NELC	North East Lincolnshire Council
NG	National Grid
NGG	National Grid Gas plc
NGET	National Grid Electricity Transmission plc
NLC	North Lincolnshire Council
NPPF	The National Planning Policy Framework – Policy Framework which was introduced in March 2012 and updated in July 2018. The NPPF is part of the Government's reform of the planning system intended to make it less complex, to protect the environment and to promote sustainable growth. It does not contain any specific policies on Nationally Significant Infrastructure Projects but its policies may be taken into account in decisions on DCOs if the Secretary of State considers them to be both important and relevant.
NPS	National Policy Statements – statements produced by Government under the Planning Act 2008 providing the policy framework for Nationally Significant Infrastructure Projects. They include the Government's view of the need for and objectives for the development of Nationally Significant Infrastructure Projects in

Abbreviation	Description
	a particular sector such as energy and are the primary matter against which applications for NSIPs are determined.
NSER	No Significant Effects Report – for the Habitats Regulations Assessment (HRA).
NSIP	Nationally Significant Infrastructure Project – Defined by the Planning Act 2008 and including projects relating to energy (including generating stations, electric lines and pipelines); transport (including trunk roads and motorways, airports, harbour facilities, railways and rail freight interchanges); water (dams and reservoirs, and the transfer of water resources); waste water treatment plants and hazardous waste facilities. These projects are only defined as nationally significant if they satisfy a statutory threshold in terms of their scale or effect. The Proposed Development is a NSIP.
NSRs	Noise Sensitive Receptors – locations or areas where dwelling units or other fixed, developed sites of frequent human use occur.
NTS	Non-Technical Summary – this document is a summary of the Environmental Statement written in non-technical language for ease of understanding.
OCGT	Open Cycle Gas Turbine – a combustion turbine plant fired by gas or liquid fuel to turn a generator rotor that produces electricity.
OCGT Power Station	Work No. 1 – an OCGT power station with a gross capacity of up to 299MW.
OCGT Power Station Site	The land required for Work No.1.
Order	Immingham Open Cycle Gas Turbine Order
Order land	The area over which powers of compulsory acquisition or temporary possession are sought in the DCO, shown on the Land Plans. The Order land is the same area as the Project Land.
Order limits	The area in which consent to carry out works is sought in the DCO, the area is split into different Work Numbers which are set out Schedule 1 to the DCO and shown on the Works Plans. The Order limits is the same area as the Site .
PA 2008	Planning Act 2008. An Act which provides the need for and the powers to apply for and grant development consent orders ('DCO') for nationally significant infrastructure projects ('NSIP').
PEA	Preliminary Ecological Appraisal (PEA Report – report establishing baseline conditions and evaluating the importance of any ecological features present.
PEI	Preliminary Environmental Information – an initial statement of the main environmental information available for the study area.
PEIR	Preliminary Environmental Information Report – a report outlining the preliminary environmental information and which is published during the pre-application consultation on a NSIP.
PHE	Public Health England – an executive agency, sponsored by the Department of Health, to protect and improve the nation's health and wellbeing and reduce health inequalities.
PINS	Planning Inspectorate – executive agency of the Ministry of Housing, Communities and Local Government of the United Kingdom Government. It is responsible for examining applications

Abbreviation	Description
	for NSIPs, and reporting to the Secretary of State who makes a final decision on such applications.
PPG	Planning Practice Guidance – guidance expanding upon and supporting the NPPF.
Project Land	The land required for the Proposed Development (the Site) and the land comprising the Existing Gas Pipeline Site. The Project Land is the same as the 'Order land' (in the DCO).
Proposed Development	The construction, operation and maintenance of a new gas-fired electricity generating station with a gross output capacity of up to 299 MW, including electrical and gas supply connections, and other associated development.
PRoW	Public Right of Way
SAC	Special Area of Conservation – High quality conservation sites that are protected under the European Habitats Directive, due to their contribution to conserving those habitat types that are considered to be most in need of conservation.
SHBSES	South Humber Bank Strategic Employment Site
SINC	Site of Nature Conservation Interest
Site	The land required for the Proposed Development, and which is the same as the 'Order limits' (in the DCO).
SoCC	Statement of Community Consultation
SoS	The Secretary of State – the decision maker for DCO applications and head of a Government department. In this case the SoS for the Department for Business, Energy & Industrial Strategy (formerly the Department for Energy and Climate Change).
SPA	Special Protection Area – strictly protected sites classified in accordance with Article 4 of the EC Birds Directive. Special Protection Areas are Natura 2000 sites which are internationally important sites for the protection of threatened habitats and species.
SSSI	Site of Specific Scientific Interest – nationally designated Sites of Special Scientific Interest, an area designated for protection under the Wildlife and Countryside Act 1981 (as amended), due to its value as a wildlife and/or geological site.
SUDS	Sustainable Urban Drainage System
SWMP	Site Waste Management Plan (SWMP)
TA	Transport Assessment
TCPA 1990	Town and Country Planning Act 1990 (as amended) – the Act that regulates the majority of development of land in England and Wales, but which is not directly applicable to this proposed development as it is a NSIP, regulated by the Planning Act 2008.
Temporary Construction and Laydown	Work No. 3 – temporary construction and laydown areas comprising hard standing, laydown and open storage areas, contractor compounds and staff welfare facilities, vehicle parking, roadways and haul routes, security fencing and gates, gatehouses, external lighting and lighting columns. There are three construction and laydown areas included in the Application.
Temporary Construction and Laydown Site	Land Required for Work No. 3.

Abbreviation	Description
TLOR	Total Lindsey Oil Refinery
UAEL	Unacceptable Observed Effect Level
Utilities and Services Connections	Work No 6 – utilities and services connections to the OCGT Power Station.
Utilities and Services Connections Site	The land required for Work No.6 – the land required for the utilities and services connections to the OCGT Power Station.
Vitol	Vitol Group – the owner of VPI LLP and VPIB.
VPIB	VPI Immingham B Limited – the Applicant
VPI EPA	VPI Energy Park A – the land proposed for the development of a 49.9 MW gas-fired power station that benefits from planning permission granted by NLC in 2018 (Reference: PA/2018/918).
VPI LLP	VPI Immingham LLP – the owner and operator of the Existing VPI CHP Plant.
WCA	The Wildlife and Countryside Act 1981 – legislation for the protection of animals, plants and certain habitats in the UK.
WHO	World Health Organisation
Work No.1	An OCGT power station (the 'OCGT Power Station') with a gross capacity of up to 299MW.
Work No.2	Access works (the 'Access Site'), comprising access to the Main OCGT Power Station Site and access to Work Nos. 3, 4, 5 and 6.
Work No.3	Temporary construction and laydown area (the 'Temporary Construction and Laydown') comprising hard standing, laydown and open storage areas, contractor compounds and staff welfare facilities, vehicle parking, roadways and haul routes, security fencing and gates, gatehouses, external lighting and lighting columns;
Work No.4	An underground and overground gas pipeline (the 'Gas Connection') of up to 600 mm (nominal internal diameter) for the transport of natural gas to Work No. 1.
Work No.5	An electrical connection (the 'Electrical Connection') of up to 400 kilovolts and control systems.
Work No.6	Utilities and services connections (the 'Utilities and Services Connections').
WSI	Written Scheme of Investigation – a method statement or a project design to cover a suite of archaeological works for a site.

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1. INTRODUCTION

1.1 Overview

- 1.1.1 This report has been prepared on behalf of VPI Immingham B Ltd ('VPIB' or the 'Applicant'). It forms part of the application (the 'Application') for a Development Consent Order (a 'DCO') submitted to the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy under section 37 of the Planning Act 2008' (the 'PA 2008').
- 1.1.2 VPIB is seeking development consent for the construction, operation and maintenance of a new gas-fired electricity generating station with a gross output capacity of up to 299 megawatts ('MW'), including electrical and gas supply connections, and other associated development (the 'Proposed Development'). The Proposed Development is located primarily on land (the 'Site') to the north of the existing VPI Immingham Power Station, Rosper Road, South Killingholme, North Lincolnshire, DN40 3DZ.
- 1.1.3 A DCO is required for the Proposed Development as it falls within the definition and thresholds for a 'Nationally Significant Infrastructure Project' (a 'NSIP') under section 14(1)(a) and sections 15(1) and 15(2) of the PA 2008. The DCO, if made by the SoS, would be known as the 'The Immingham Open Cycle Gas Turbine Order' (the 'Order').

1.2 VPI

- 1.2.1 VPI Immingham LLP ('VPI LLP') owns and operates the existing VPI Immingham Power Station, one of the largest combined heat and power ('CHP') plants in Europe, capable of generating 1,240 MW (about 2.5% of UK peak electricity demand) and up to 930 tonnes of steam per hour (hereafter referred to as the 'Existing VPI CHP Plant'). The steam is used by nearby oil refineries to turn crude oil into products, such as gasoline. The land comprising the Existing VPI CHP Plant is hereafter referred to as the 'Existing VPI CHP Plant Site'.
- 1.2.2 VPI LLP is a wholly owned subsidiary of the Vitol Group ('Vitol'), founded in 1966 in Rotterdam, the Netherlands. Since then Vitol has grown significantly to become a major participant in world commodity markets and is now the world's largest independent energy trader. Its trading portfolio includes crude oil, oil products, liquid petroleum gas, liquid natural gas, natural gas, coal, electricity, agricultural products, metals and carbon emissions. Vitol trades with all the major national oil companies, the integrated oil majors and independent refiners and traders. For further information on VPI LLP and Vitol please visit:

<https://www.vpi-i.com/>
- 1.2.3 VPIB has been formed as a separate entity for the purposes of developing and operating the Proposed Development.

1.3 The Site

- 1.3.1 The Site is primarily located on land immediately to the north of the Existing VPI CHP Plant Site, as previously stated. Immingham Dock is located approximately 1.5 kilometres ('km') to the south east of the Site at its closest point. The Humber ports

facility is located approximately 500 metres ('m') north and the Humber Refinery is located approximately 500m to the south.

- 1.3.2 The villages of South Killingholme and North Killingholme are located approximately 1.4 km and 1.6 km to the west of the Site respectively, and the town of Immingham is located approximately 1.8 km to the south east. The nearest residential property comprises a single house off Marsh Lane, located approximately 325 m to the east of the Site.
- 1.3.3 The Site comprises the following main parts:
- OCGT Power Station Site;
 - Access Site;
 - Temporary Construction and Laydown Site;
 - Gas Connection Site;
 - Electrical Connection Site; and
 - Utilities and Services Connections Site.
- 1.3.4 The Site is located entirely within the boundary of the administrative area of North Lincolnshire Council ('NLC'), a unitary authority. The different parts of the Site are illustrated in the Works Plans (Application Document Ref: 4.3).
- 1.3.5 The Site has been selected by the Applicant for the Proposed Development, as opposed to other potentially available sites, for the following reasons:
- it comprises primarily of previously developed or disturbed land, including land within the operational envelope of the Existing VPI CHP Plant Site;
 - it is situated in an industrial setting with few immediate receptors and is not particularly sensitive from an environmental perspective;
 - it is primarily located adjacent to the Existing VPI CHP Plant, which provides visual screening and synergies in terms of the existing workforce, and utilities and service connections;
 - it benefits from excellent grid connections (gas and electricity) on the Existing VPI CHP Plant Site; and
 - it benefits from existing highway accesses onto Rosper Road, with the latter providing a direct connection (via a short section of Humber Road) to the Strategic Highway Network (A160) a short distance to the south of the Site.
- 1.3.6 A more detailed description of the Site is provided in Environmental Statement ('ES') Volume 1 Chapter 3 'Site Description' (Application Document Ref: 6.2.3).

1.4 The Existing Gas Pipeline

- 1.4.1 In addition to the Site, the Application includes provision for the use of an existing gas pipeline (the 'Existing Gas Pipeline') to provide fuel to the Proposed Development. The Existing Gas Pipeline was originally constructed in 2003 to provide fuel to the

Existing VPI CHP Plant. The route of the pipeline runs from a connection point at an above ground installation (the 'Existing AGI Site') within the Existing VPI CHP Plant Site to a tie in point at the existing National Grid ('NG') Feeder No.9 pipeline located to the west of South Killingholme.

- 1.4.2 A small part of the Existing Gas Pipeline Site lies within the administrative area of North East Lincolnshire District Council ('NELC'), the neighbouring local authority.
- 1.4.3 The Applicant is not seeking consent to carry out any works to the Existing Gas Pipeline and, as a result, it does not form part of the Site or Proposed Development. It is included in the Application on the basis that the Applicant is seeking rights to use and maintain the pipeline and it is therefore included within the DCO 'Order land' (the area over which powers of compulsory acquisition or temporary possession are sought). The area of land covered by the Existing Gas Pipeline, including a 13 m stand-off either side of it to provide for access and any future maintenance requirements, is hereafter referred to as the 'Existing Gas Pipeline Site'.
- 1.4.4 The Site and the Existing Gas Pipeline Site are collectively referred to as the 'Project Land'. The area covered by the Project land is illustrated in the Location Plan (Application Document Ref: 4.1).
- 1.4.5 The Existing Gas Pipeline has not been assessed as part of the Environmental Impact Assessment ('EIA') carried out in respect of the Application. This is on the basis that it is a pre-existing pipeline and the Applicant is not seeking consent to carry out any works to it. Further explanation in respect of this matter is provided in ES Volume 1, Chapter 1 'Introduction' and Chapter 3 'Site Description' (Application Document Refs: 6.2.1 and 6.2.3).

1.5 The Proposed Development

- 1.5.1 The main components of the Proposed Development are summarised below, as set out in the draft DCO (Application Document Ref: 2.1):
- Work No. 1 – an OCGT power station (the 'OCGT Power Station') with a gross capacity of up to 299MW;
 - Work No. 2 – access works (the 'Access'), comprising access to the OCGT Power Station Site and access to Work Nos. 3, 4, 5 and 6;
 - Work No. 3 – temporary construction and laydown area ('Temporary Construction and Laydown') comprising hard standing, laydown and open storage areas, contractor compounds and staff welfare facilities, vehicle parking, roadways and haul routes, security fencing and gates, gatehouses, external lighting and lighting columns;
 - Work No. 4 – gas supply connection works (the 'Gas Connection') comprising an underground and/or overground gas pipeline of up to 600 millimetres (nominal internal diameter) and approximately 800 m in length for the transport of natural gas from the Existing Gas Pipeline to Work No. 1;
 - Work No. 5 – an electrical connection (the 'Electrical Connection') of up to 400 kilovolts and associated controls systems; and

- Work No 6 – utilities and services connections (the 'Utilities and Services Connections').
- 1.5.2 It is anticipated that subject to the DCO having been made by the SoS and a final investment decision by VPIB, construction work on the Proposed Development would commence in early 2021. The overall construction programme is expected to last approximately 21 months and is anticipated to be completed in late 2022, with the Proposed Development entering commercial operation later that year or early the following year.
- 1.5.3 A more detailed description of the Proposed Development is provided at Schedule 1 'Authorised Development' of the draft DCO (Application Document Ref: 2.1) and ES Volume 1, Chapter 4 'The Proposed Development' (Application Document Ref: 6.2.4).
- 1.5.4 The areas within which each of the main components of the Proposed Development are to be built are shown by the coloured and hatched areas on the Works Plans (Application Document Ref: 4.3).

1.6 The purpose and structure of this document

- 1.6.1 This document provides a written summary of the Applicant's oral case at the Compulsory Acquisition Hearing held at 2pm on 02 October 2019. This document has been submitted for Deadline 3 of the Examination (10 October 2019).

2. WRITTEN SUMMARY OF APPLICANT'S ORAL CASE

2.1 Introductory Remarks

- 2.1.1 The Compulsory Acquisition Hearing was held at 2pm on 2 October 2019 at The Ashbourne Hotel, Vicarage Lane, North Killingholme, North Lincolnshire, DN40 3JL.
- 2.1.2 The main purpose of the Compulsory Acquisition Hearing was to enable the ExA to inquire into the Applicant's case to Compulsorily Acquire (CA) land or rights over land or take Temporary Possession (TP) of land. It also sought to discharge the ExA's duty to hear persons 'affected' by CA and TP proposals who request to be heard and will enable the ExA to consider whether relevant legal and policy tests applicable to CA and TP proposals have been met.
- 2.1.3 The Compulsory Acquisition Hearing took the form of running through the Examining Authority's ('ExA') agenda published on 13 September 2019 and the updated Compulsory Acquisition Schedule submitted for Deadline 2 on 12 September 2019 (Document Ref. 7.4).

2.2 The Applicant (participants)

- 2.2.1 The Applicant:
- Marvin Seaman, VPI
 - Nick McDonald, Pinsent Masons

2.3 Applicant's Summary of Oral Case

Table 2.3 – Applicant's Summary of Oral Case

	AGENDA	SUMMARY OF ORAL CASE
1.	Welcome, introductions and arrangements for the Hearing	n/a
2.	Purpose of the Compulsory Acquisition Hearing	n/a
3.	Applicant's introduction and update: <ul style="list-style-type: none"> • General approach to compulsory acquisition and temporary possession 	<p>The Applicant has sought powers of compulsory acquisition and to take temporary possession over the Order land encompassing both the Order limits, where the Proposed Development will be constructed, and the Existing Gas Pipeline where the Applicant has sought rights in order to be able to maintain and use that pipeline.</p> <p>Section 5 of the Applicant's Statement of Reasons (Document 3.2) sets out the relevant statutory tests. Those relevant to this application are set out in section 122(2)(a) and (b). The land must be required for the development to which the development consent relates, or to facilitate or is incidental to that development, AND there must be a compelling case in the public interest.</p> <p>The Applicant has sought powers of compulsory acquisition only over land which complies with one of the tests in (a) or (b). The Proposed Development would be constructed within the Order limits, and that land is clearly required for the development – the OCGT generating station, and its associated connections, accesses and infrastructure. The rights sought in relation to the Existing Gas Pipeline Site part of the Order land are required to facilitate the development – without a supply of fuel, the generating station cannot operate.</p> <p>In terms of the interest sought, the Applicant has taken an approach of seeking only those powers which are necessary for the delivery of the project. The OCGT Main Site is the only area for which the freehold is sought (pink on the Land Plans), with new rights sought in respect of the remainder of the permanent built development areas and the Existing Gas Pipeline (blue on the Land Plans).</p>

AGENDA	SUMMARY OF ORAL CASE
	<p>The Applicant has also sought powers to temporarily possess areas required for construction compounds and laydown (yellow on the Land Plans).</p> <p>No interested party has suggested that the tests in section 122(2)(a) and (b) are not complied with.</p> <p>There must also be a compelling case in the public interest for compulsory acquisition powers to be granted, as per section 122(3). The Applicant's SoR sets out its view that there is such a compelling case – it has considered the need for the project, having regard to NPS EN1 and EN2, in Section 7 of the SoR and in the Planning Statement. The urgent need for flexible gas-fired generating capacity is established in NPS EN-1.</p> <p>That policy also sets out (3.6.8) that fossil fuel generating stations will be required to provide back-up for when generation from intermittent renewables sources is low, and to help with the transition to a low carbon electricity generation. Having back-up power generation is not a 'nice to have' – it is essential that the National Grid can cope with the highest periods of demand, in all weather circumstances. Since the SoR was produced the Committee on Climate Change recommended that the Government adopt a net zero CO2 target for 2050, which was then legislated for in July this year. The Committee's report (2 May 2019) noted the continued need for gas-fired generation through to 2050 and beyond.</p> <p>Considering the tests in the DCLG Guidance on compulsory acquisition, it is clear that the land is to be used for a legitimate purpose and that the Applicant has a clear idea of how the land will be used – the plots within the Order land are each to be used for very specific elements of the Proposed Development and associated infrastructure.</p> <p>The Applicant has explored reasonable alternatives, including through the pre-application consultation process and by including modifications to the scheme.</p> <p>There is a reasonable prospect of funding becoming available – details are set out in the Funding Statement, and the Applicant has included an article in the DCO to provide for financial security for compensation payable pursuant to the compulsory acquisition and temporary possession powers.</p>

AGENDA	SUMMARY OF ORAL CASE
	<p>There are no impediments to the Proposed Development progressing, if the DCO and the associated compulsory acquisition powers are granted. The Applicant has provided the Other Consents and Licences document and will continue to update that through the examination.</p> <p>The Applicant acknowledges that its proposals have the potential to cause private loss in relation to land acquired using compulsory acquisition powers. The Applicant has sought to minimise the loss and disruption to affected landowners by minimising the extent of freehold land sought, using temporary possession powers or seeking rights over land wherever practicable. No private dwellings are proposed to be acquired, and APL has secured a number of voluntary agreements to reduce the reliance on compulsory acquisition. Compensation will be payable to affected landowners in accordance with the Compensation Code.</p> <p>In terms of human rights, the Applicant has had regard to the provisions of the ECHR - Section 11 of the Statement of Reasons set out the relevant provisions. The applicant has considered Articles 6 and Article 1 of the First Protocol. There is no proposal to acquire or interfere with any private dwellings, so the Applicant does not consider that Article 8 is engaged. Interference with convention rights is authorised in law so long as the statutory procedures are followed and the interference with the convention right is proportionate. As set out in the SoR the Applicant considers that the considerable public benefit arising from grant of the order would only arise and be deliverable if the order is accompanied by powers of compulsory acquisition. It considers that the significant public benefits outweigh the effects on persons owning property within the Order Land. Compensation will be payable in accordance with the compensation code for interests affected.</p> <p>All landowners have been consulted on the proposals and have had the opportunity to make representations both at the pre-application stage and during the examination. Proper protection is afforded in relation to the ability to challenge the decision of the Secretary of State to grant the order and for affected person to be able to apply to the Upper Tribunal Lands Chamber to determine compensation payable.</p>

AGENDA	SUMMARY OF ORAL CASE
	<p>Any infringement of Convention rights is considered therefore to be proportionate and legitimate, and (as set out in sections 6 and 7 of the SoR) backed by a compelling case in the public interest.</p> <p>The Applicant considers that the balance lies clearly in favour of the grant of compulsory acquisition powers, taking into account the measures to avoid, minimise or mitigate the effects of such powers, and noting the compelling case in the public interest which it considers exists for the Proposed Development.</p>
<ul style="list-style-type: none"> Progress and expectations on negotiations 	<p>The Applicant has had regard to the DCLG Guidance in relation to progressing negotiations for voluntary agreements in parallel to seeking compulsory acquisition powers as a contingency measure. This is explained in the Statement of Reasons (Document 3.2).</p> <p>The Applicant outlined the position in relation to each of the owners in the CA Schedule as submitted at Deadline 2 (Document 7.4), and which will be updated by the Applicant at relevant examination deadlines.</p> <ul style="list-style-type: none"> Air Products – the parties are making progress on the terms of the agreements between them, the overall position remains as per the CA Schedule; Cadent Gas – the position remains as per the CA Schedule; Network Rail - the position remains as per the CA Schedule; Phillips 66 – to be addressed directly during the remaining parts of the hearing; National Grid Electricity and Gas - the position remains as per the CA Schedule and the other Deadline 2 submissions; Hornsea 1 and Hornsea 2 companies – the discussions on the draft crossing agreement have moved forward and the use of that agreement is agreed in principle. The Hornsea companies have also requested that protective provisions are included on the face of the DCO – the Applicant has agreed this in principle, and the parties are discussing the form of those; TLOR – the Applicant has responded directly to TLOR in relation to the two matters requested in its Written Representation (Document REP2-039). The first (in relation to

	AGENDA	SUMMARY OF ORAL CASE
		<p>moving the canteen) is not a matter to be dealt with in the requirements, and is already provided for in the Option Agreement in place between the parties. The Applicant has offered to discuss those terms with TLOR. In relation to the second (protection of TLOR's pipelines) the Applicant has turned the suggested protections into protective provisions which have been sent to TLOR;</p> <ul style="list-style-type: none"> • Able UK - the Applicant confirmed the following update which had been agreed with Able prior to the hearings. The parties have agreed that the principle of the Applicant's proposed approach is acceptable, subject to agreeing the terms of the protective provisions. The provisions have been discussed, and comments on them have passed between the parties, with relatively few outstanding points remaining. The Applicant anticipates being able to agree the form of the PPs prior to Deadline 4 or soon thereafter; and • CLH Pipelines - the parties are making progress on the terms of the agreements between them. In response to a question from the Examining Authority, the Applicant confirmed that it would discuss with CLH whether the protective provisions in the DCO should be removed once the protection agreement is finalised, or whether they will remain.
4.	<p>The objections to compulsory acquisition and temporary possession</p> <ul style="list-style-type: none"> • The effects of the proposed compulsory acquisition or temporary possession • Can the reasons for the objection be overcome? 	<p>Phillips 66 Limited</p> <p>In response to various matters raised by Phillips 66, the Applicant responded as follows.</p> <p>The Applicant has proposed a set of property agreements which would replicate or continue the provisions which are already in place between VPI Immingham LLP and Phillips 66 in relation to the Existing Gas Pipeline and which, as Phillips 66 note in their written representation, provide a range of protections for it. These agreements provide the land and rights that the Applicant would require. The Applicant welcomes the commitment from Phillips 66 to continue discussions on those documents.</p> <p>The Applicant outlined the urgent need for the Proposed Development. This is as set out in the Statement of Reasons (Document 3.2) and the Applicant's submissions in response to this matter are included in the Applicant's Response to Written Representations (Document 7.6), at paragraph 3 of the response to Phillips 66.</p>

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	<p>As regards the public interest weighing up exercise that Phillips 66 assert is necessary (i.e. the public interest in the operations of the Humber Oil Refinery versus the public interest put forward by the Applicant in support of its application for compulsory acquisition powers), the Applicant outlined its position that due to the protections (via agreements) which the Applicant has proposed to Phillips 66 and which it is now including in the Draft DCO (Document 2.7), such a weighing up exercise is not necessary. The Applicant has based the protections in the agreements very substantially on the Existing Arrangements, and therefore the position for Phillips 66 would be the same as today. Phillips 66 identified in a meeting with the Applicant that it had concerns about a reduction in covenant strength (compared to the existing party, VPI LLP), and the Applicant has therefore confirmed that a guarantee from VPI LLP will form part of the Proposed Arrangements. The Applicant noted that it is not aware that Phillips 66 has identified (to VPI LLP or the Applicant) that any part of the Existing Arrangements is insufficient, and may cause P66 an issue in relation to the COMAH Regulations or otherwise. Information on the proposed agreements and protections is at paragraphs 4.7 and 7.6 of the response to Phillips 66 in the Applicant's Response to Written Representations (Document 7.6).</p> <p>In relation to alternatives, the Applicant strongly disagrees with Phillips 66's assertion that it has not complied with paragraph 8 of the DCLG Guidance on procedures for compulsory acquisition. The Applicant outlined two principle points in relation to this, selection of the Order Land, and the Applicant's efforts to avoid the need to rely on compulsory acquisition. The Applicant's submissions in relation to these matters are set at paragraph 5 of the response to Phillips 66 in the Applicant's Response to Written Representations (Document 7.6).</p> <p>Hornsea 1 and Hornsea 2 companies</p> <p>The Applicant set out that the form of a protection agreement was being discussed between the parties, taking into account the existing agreement in place between Hornsea 1 and VPI LLP. The principle of the crossing agreement approach is agreed, and the terms are being discussed. In addition the Hornsea 1 and Hornsea 2 companies have requested protective provisions on the face</p>

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		of the DCO, expressed to be sub-servient to the crossing agreements in the usual way. The Applicant has agreed the principle of this, and the parties are discussing the terms to be included.
5.	Statutory undertakers – s127 and 138 PA 2008	<p>In response to a question from the Examining Authority, the Applicant confirmed that it is working towards achieving agreement with all parties to whom sections 127 or 138 apply, allowing them to withdraw their relevant representations prior to the end of the examination. The Applicant confirmed that in the event that that was not likely to be achieved for any party, the Applicant would make submissions in relation to the position under those sections.</p> <p>The Applicant offered to include information in the Compulsory Acquisition Schedule indicating whether sections 127 or 138 applied to each party.</p> <p><i>[Post-hearing note: this has been included in the updated Compulsory Acquisition Schedule (Document 7.13) submitted at Deadline 3.]</i></p>
6.	Any other Compulsory Acquisition issues	n/a
7.	Consideration of whether updates or revisions to the Statement of Reasons and Book of Reference are required, and any implications for the drafting of the DCO	<p>Easements/wayleaves where Phillips 66 is the freehold owner</p> <p>The inclusion of Phillips 66 as the owner of an easement in land which it owns arose due to the interpretation by the Applicant's land referencers of the request for information form filled in by P66, who were then included in the BoR on a precautionary basis.</p> <p><i>[Post-hearing note: the Applicant has been included in the updated Compulsory Acquisition Schedule (Document 7.13) submitted at Deadline 3.]</i></p> <p>Plot 8</p> <p>In relation to Plot 8 (on the Land Plans, Document 4.2), the position is different as Phillips 66 is not the freehold owner. The Applicant has included, as required, all relevant interests in the Book of</p>

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		Reference, and has sought powers in the Draft DCO to be able to extinguish or suspend rights and other interests. This approach has been adopted in order to address a number of potential proprietary impediments which could otherwise impede the construction or operation of the Proposed Development. As previously set out, the Applicant's proposal is that the parties enter into the Proposed Arrangements in order to give the Applicant the necessary rights to construct, operate and maintain the Proposed Development and to safeguard the operation and maintenance of the HOR pipelines by Phillips 66. The Applicant has also proposed the Protection Agreement and is content to discuss the terms of the requested protective provisions further with Phillips 66.
8.	Review of issues and actions arising	The Applicant confirmed it would provide updates on negotiations with all relevant parties at the examination deadlines.
9.	Next steps	N/A
10	Close	N/A

2.4 Close

2.4.1 The hearing closed at 3.44pm.