

Application by VPI Immingham B Limited for an Order Granting Development Consent for VPI Immingham OCGT Project

The Examining Authority's Further Written Questions and Requests for Information (ExA WQ)

Issued on Thursday 24 October 2019

The following table sets out the Examining Authority's (ExA's) Further Written Questions in relation to the proposed VPI Immingham OCGT Project. Responses are required by **Deadline 4** in the Examination Timetable, **Thursday 14 November 2019**. Please note that if this deadline is missed the ExA is not obliged to take account of your response.

Column 2 of the table indicates which Interested Parties (IPs) and Other Persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. If the answer to a question is set out in, for example, a statement of common ground (SOCG) then a cross reference to where the issue is addressed is acceptable.

This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with 2 (indicating that it is from ExAQ2) and then has an issue number and a question number. For example, the first question is identified as Q2.1.1. When you are answering a question, please start your answer by quoting the unique reference number. If you are responding to a small number of questions, answers in a letter will suffice.

In some areas there may be a degree of overlap between the answers to questions and it is acceptable to provide a single answer which responds to multiple questions or answer questions individually and provide cross references between multiple answers where appropriate. If you do so, please use all number references and ensure all elements are addressed.

If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact ImminghamOCGT@planninginspectorate.gov.uk

Responses are due by **Thursday 14 November 2019**

Abbreviations used

CA	<i>Compulsory Acquisition</i>	LPA	<i>Local Planning Authority</i>
COMAH	<i>Control of Major Accident Hazards Regulations 2015</i>	NLC	<i>North Lincolnshire Council</i>
BoR	<i>Book of Reference</i>	PA 2008	<i>Planning Act 2008</i>
dDCO	<i>Draft DCO</i>	R	<i>Requirement</i>
ExA	<i>Examining Authority</i>	SoR	<i>Statement of Reasons</i>
Framework WSI	<i>Framework Written Scheme of Investigation</i>	TP	<i>Temporary Possession</i>
HOR	<i>Humber Oil Refinery</i>		

The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010097/EN010097-000327-Immingham%20B%20OCGT%20Exam%20Library%20PDF%20Version.pdf>

It will be updated as the examination progresses.

Citation of Questions

Questions in this table should be cited as follows:

Question reference: issue reference: question number, eg ExQ2.1.1 – refers to question 1 in this table.

ExQ2.	Respondent:	Question:
1	Cultural Heritage	
Q2.1.1	Applicant	The ExA notes that the Applicant has made a number of changes to the Framework WSI to address concerns raised by NLC in its Local Impact Report. Please provide an updated Framework WSI identifying the changes proposed/ agreed.
Q2.1.2	North Lincolnshire Council	Please state whether the changes proposed by the Applicant to the Framework WSI address the concerns raised by NLC in the Local Impact Report (in so far as they relate to cultural heritage matters).
2	Compulsory Acquisition	
Q2.2.1	Applicant	Please provide an updated CA Schedule setting out how discussions have progressed with the affected landowners.
Q2.2.2	Applicant	Please identify any key potential risks inherent in securing the necessary funds to construct the project.
Q2.2.3	Cadent Gas Limited	Paragraph 2.4 of Cadent's Written Representation [REP2-026] states that if plots 107 and 111 remain within the DCO, then serious detriment to the carrying on of Cadent's undertaking would be caused. Please explain in more detail how the CA of these plots will result in serious detriment to the carrying on of Cadent's undertaking.
Q2.2.4	Cadent Gas Limited	Please explain how the CA of rights over plots 78, 79, 80, 86, 108, 109, & 110 will result in serious detriment to Cadent's undertaking. Please outline any protective provisions considered necessary to prevent such detriment arising.
Q2.2.5	Cadent Gas Limited	Please comment on the sufficiency of the protective provisions set out in Schedule 9 Part 1 of the dDCO. Please provide details of any additional protections Cadent considers are necessary to protect its interests.

ExQ2.	Respondent:	Question:
Q2.2.6	Applicant	<p>The ExA notes that the Applicant is seeking rights over plot 107 to access and maintain (etc) the Existing Gas Pipeline. SoR Para 6.3.5 [APP-008] explains that the width of the Existing Gas Pipeline Site matches the area of land around the Existing Gas Pipeline which VPI Immingham LLP is, under its leases, permitted to occupy if required for maintenance and operation. However, the BoR [REP3-006] does not identify any existing rights to access and maintain the Existing Gas Pipeline for plot 107.</p> <p>Please confirm whether there are currently any known rights to access and maintain the Existing Gas Pipeline over plot 107. If no such rights exist, please provide further justification for acquiring these rights by CA and explain the implications for the project if they were excluded from the Order.</p>
Q2.2.7	Cadent Gas Limited Applicant	<p>Please provide an update on the survey of the Existing Gas Pipeline in relation to plots 107 & 111 (and referred to in the Compulsory Acquisition Schedule (Rev 2.0) [REP3-013]). If possible, please provide details of the precise 'as built' location of the Existing Gas Pipeline in so far as it relates to plots 107 and 111.</p>
Q2.2.8	Applicant	<p>Does the Applicant anticipate including additional protective provisions in favour of Cadent Gas Limited in the dDCO? If so, please provide details. If not, please explain.</p>
Q2.2.9	Applicant	<p>Please explain why the rights being sought over Phillips 66 land are wider than those currently in place via the leases to VPI Immingham LLP.</p> <p>How does the Applicant propose to ensure that the creation of these rights will not interfere with either the ongoing operation of the HOR or the COMAH risk profile?</p>
Q2.2.10	Phillips 66 Limited	<p>The Applicant states (Appendix 1 [REP3-011]) that protective provisions included in the revised dDCO [REP3-003] are based very substantially on the Existing Arrangements, and therefore the position of Phillips 66 is the same as today.</p>

ExQ2.	Respondent:	Question:
		Please comment on the sufficiency of the protective provisions included in Part 4, Schedule 9 of the revised dDCO [REP3-003].
Q2.2.11	Phillips 66 Limited	Please explain how the CA of the rights proposed would impact on the ongoing operation of the HOR. Please also explain the impact on the COMAH risk profile, taking into account the dDCO revisions at Deadline 3 [REP3-003].
Q2.2.12	Phillips 66 Limited	Phillips 66 invites the ExA to draw a comparison between the respective national importance of the HOR and the public interest in permitting the proposed development. Please provide a detailed justification for, and explanation of, the approach proposed.
Q2.2.13	Phillips 66 Limited	Please explain the effect that the creation of new rights, unlimited in time, would have on the future expansion/ operation of the HOR.
Q2.2.14	Phillips 66 Limited Applicant	Please provide an update on discussions.
Q2.2.15	Applicant	The ExA notes that the leases relating to the Existing CHP Plant and the Existing Gas Pipeline are due to determine in 2047. Please provide a detailed justification for requiring rights that are not time limited.
Q2.2.16	Phillips 66 Limited	Please comment on adequacy of the Proposed Arrangements. Please also comment on the Proposed Protection Agreement (Appendix 1, Paragraph 4.6 of [REP3-007]).
Q2.2.17	Applicant	Para 4.6 of Appendix 1 [REP3-007] refers to a Proposed Protection Agreement (PPA). Please provide a copy of the PPA and explain whether, and if so how, it will be secured as part of the DCO.
Q2.2.18	Applicant	Paragraph 3.1.2 of the Funding Statement [APP-009] states that it is not anticipated that any claims for blight will arise. Please explain the basis for this statement providing full justification.

ExQ2.	Respondent:	Question:
Q2.2.19	Network Rail Applicant	Please provide an update on discussions.
Q2.2.20	Applicant	In the event that agreement with Network Rail is not reached, how does the Applicant propose to ensure that Network Rail's interests, including the safety of any operational land affected, are protected?
Q2.2.21	Applicant	Please comment on the suitability of the Protective Provisions proposed by Network Rail in its Written Representation [REP2-022]. Please explain any areas of particular concern.
Q2.2.22	National Grid	Please provide an update on discussions and identify any likely obstacles to reaching an agreement before the close of the Examination.
Q2.2.23	National Grid	Please provide details and justification for any protective provisions and/ or proposed amendments to the dDCO which you consider necessary in the event that agreement cannot be reached with the applicant.
Q2.2.24	Applicant	Please expand on the justification for capping the indemnity in favour of National Grid, particularly as this may result in National Grid facing the risk of potential costs and losses through no fault of its own.
Q2.2.25	Applicant	What consideration has been given to offering full access to alternative dispute resolution techniques for those with concerns about the compulsory acquisition of their land? Please comment on whether such techniques are appropriate to deploy for this project and if not, why not.
Q2.2.26	Hornsea 1 Limited	Please provide an update on discussions.
Q2.2.27	Hornsea 2 Companies	Please provide an update on discussions.
Q2.2.28	Air Products (BR) Limited	Please provide an update on discussions.

ExQ2.	Respondent:	Question:
Q2.2.29	Air Products (BR) Limited	Please explain how Air Products' business will be impacted by the Applicant's CA of rights of the type proposed in the revised dDCO [REP3-003].
Q2.2.30	Applicant	How does the Applicant propose to ensure that Air Product's infrastructure/ interests are protected in the event that agreement is not reached between the parties?
Q2.2.31	CLH Pipelines	Please provide an update on discussions.
Q2.2.32	Applicant	<p>The Applicant has indicated that it will seek to agree protective provisions with the relevant statutory undertakers in good time before the close of the examination.</p> <p>Please provide a timetable of engagement with the relevant undertakers with whom agreement of the protective provisions is outstanding.</p>
Q2.2.33	Applicant	<p>Annex C of the Guidance related to procedures for the compulsory acquisition of land indicates (at para 4) that where it is necessary for the Land Plan to have more than one sheet, appropriate references must be made to each of them in the text of the draft order so that there is no doubt that they are all related to the order.</p> <p>Please include appropriate references in Schedule 11 of the dDCO [REP3-003].</p>
Q2.2.34	Total Linsey Oil Refinery	Please comment on the protective provisions included in Schedule 9, Part 9 of the revised dDCO submitted at Deadline 3 [REP3-003].
Q2.2.35	Total Linsey Oil Refinery	Please provide an update on discussions
3	Draft Development Consent Order	
Q2.3.1	Applicant	The revised dDCO [REP3-003] has introduced the word "shall" into some of the new protective provisions. This does not accord with the Parliamentary Council guidelines. Please amend accordingly.

ExQ2.	Respondent:	Question:
4	Noise	
Q2.4.1	North Lincolnshire Council	Please comment on the proposed revisions to R19 of the revised dDCO [REP3-003] in relation to operational noise.
5	Design Layout and Visibility	
Q2.5.1	Ministry of Defence	<p>Please provide a response to ExA Q.1.10.1 [PD-007] (which is reproduced below for ease of reference).</p> <p><i>“The Defence Infrastructure, Ministry of Defence Relevant Representation [RR-006] maintains a request to fit aviation warning lights to the stack. The ExA notes the Applicant’s response set out in Table 12.3 of the Consultation Report [APP-018] to an earlier request and in particular the appellant’s statement that the requirement to fit aviation warning lights is only legally mandated on structures exceeding 150 metres in height. The ExA also notes that the stack would be located near to other, higher stacks.</i></p> <p><i>Please expand on the justification for the above request setting out why, in view of the proposed height, an aviation warning lighting system is necessary”.</i></p>