

VPI Immingham OCGT Project

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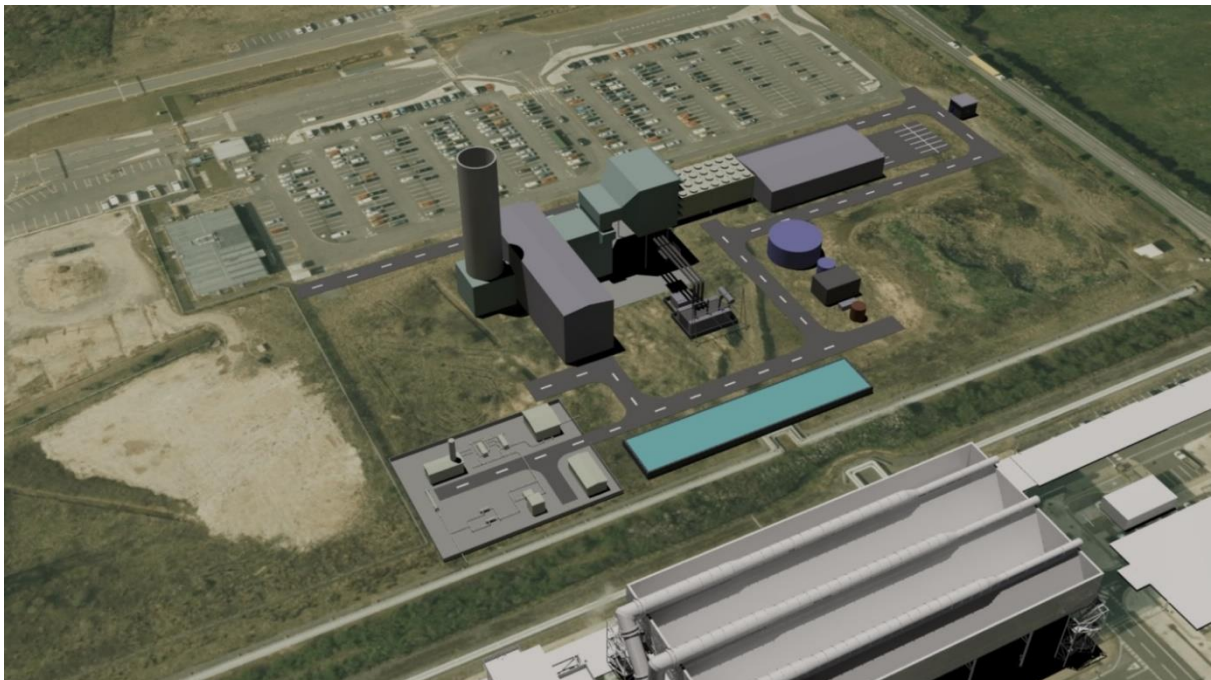
The Immingham Open Cycle Gas Turbine Order

Land to the north of and in the vicinity of the VPI Immingham Power Station, Rosper Road, South Killingholme, Lincolnshire, DN40 3DZ

Applicant's Response to Examining Authority's Further Written Questions

Examination Deadline 4

The Planning Act 2008



Applicant: VPI Immingham B Ltd

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Author	Clara Rands (CR)		
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Approved By	Jake Barnes-Gott (JBG)		
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GLOSSARY

Abbreviation	Description
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
AONB	Area of Outstanding Natural Beauty
APFP Regulations	The Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009
Applicant	VPI Immingham B Ltd
Application	The Application for a Development Consent Order.
Application Documents	The documents that make up the Application (as defined above).
BEIS	Department for Business, Energy and Industrial Strategy.
CCR	Carbon Capture Ready
CCS	Carbon Capture and Storage
CEMP	Construction Environmental Management Plan
CHP	Combined Heat and Power
CO ₂	Carbon Dioxide
COMAH	Control of Major Accident Hazards
CTMP	Construction Traffic Management Plan
CWTP	Construction Workers Travel Plan
DCO	A Development Consent Order.
EA	Environment Agency
EIA	Environmental Impact Assessment
Electrical Connection	Work No. 5 – an electrical connection of up to 400 kilovolts and controls systems.
Electrical Connection Site	The land required for Work No.5.
EMF	Electromagnetic fields – a physical field produced by electrically charged objects.
EPA	Environmental Protection Act
ES	Environmental Statement
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.

Abbreviation	Description
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.
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.
FRA	Flood Risk Assessment
Gas Connection	Work No. 4 – the new underground and overground gas pipeline
Gas Connection Site	The land required for Work No.4.
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.
HGV	Heavy Goods Vehicle – vehicles with a gross weight in excess of 3.5 tonnes.
km	Kilometre – unit of distance.
LVIA	Landscape and Visual Impact Assessment
LWS	Local Wildlife Site
m	Metres – unit of distance.
MW	Megawatts – unit of energy.
NELC	North East Lincolnshire Council
NG	National Grid
NGET	National Grid Electricity Transmission plc
NLC	North Lincolnshire Council
NPPF	The National Planning Policy Framework
NPS	National Policy Statements
NSIP	Nationally Significant Infrastructure Project
NSRs	Noise Sensitive Receptors – locations or areas where dwelling units or other fixed, developed sites of frequent human use occur.
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 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
PINS	Planning Inspectorate

Abbreviation	Description
PPG	Planning Practice Guidance
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
Site	The land required for the Proposed Development, and which is the same as the 'Order limits' (in the DCO).
SoS	Secretary of State
SPA	Special Protection Area
SoCG	Statement of Common Ground
SUDS	Sustainable Urban Drainage System
SWMP	Site Waste Management Plan (SWMP)
TCPA 1990	Town and Country Planning Act 1990 (as amended)
Temporary Construction and Laydown	Work No. 3
TLOR	Total Lindsey Oil Refinery
TTWA	Travel to Work Area
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 LLP	VPI Immingham LLP – the owner and operator of the Existing VPI CHP Plant.
WebTAG	Web-based Department of Environment, Transport and Regions Document. Transport Analysis Guidance.
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
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').

Abbreviation	Description
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 'Applicant's Response to the Examining Authority's Further Written Questions' report (Document Ref: 7.15) 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 'VPI Immingham OCGT 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 'Description of the Site' (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 'Description of the Site' (Application Document Ref: 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 forms part of a package of documents submitted by the Applicant for Deadline 4 of the Examination. It sets out the Applicant's responses to the Examining Authority's ('ExA') Further Written Questions – see Section 2 of this report.

2. THE APPLICANT'S RESPONSES

- 2.1.1 The Applicant's responses to the Further Written Questions provided by the ExA are set out in the Table **2.1** on the following pages.

Table 2.1 – Applicant's Responses to the Examining Authority's Further Written Questions

Ref No.	Respondent	Question	Response
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.	The updated Framework WSI (Rev 2.0) (Document Ref: 6.4.31) forms part of the Applicant's Deadline 4 submission. The changes to the Framework WSI are explained in the draft Statement of Common Ground with North Lincolnshire Council (Rev 4.0) (Document Ref: 8.1), which also forms part of the Applicant's Deadline 4 submission.
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).	These changes have been agreed with North Lincolnshire Council and address the concerns raised. The agreed position is as set out in the draft Statement of Common Ground with North Lincolnshire Council (Rev 4.0) (Document Ref: 8.1).
2.	Compulsory Acquisition		
Q2.2.1	Applicant	Please provide an updated CA Schedule setting out how discussions have progressed with the affected landowners.	Please see the updated document also submitted at Deadline 4.
Q2.2.2	Applicant	Please identify any key potential risks inherent in securing the necessary funds to construct the project.	<p>Through VPI Holding Limited, the Applicant has the ability to procure the financial resources, utilising a mix of shareholder equity and debt finance, necessary to fund construction of the Project. VPI Holding Limited has successfully completed bank refinancing twice since the acquisition of VPI Immingham LLP in 2013, and involving debt of a significantly greater scale than the cost of the Project.</p> <p>Key potential risks are generic as they are applicable to any debt financed generation project supported by the UK Capacity Market funding. These primarily include the inability to raise debt financing on appropriate terms or raise sufficient internal share capital. These can be a result of not developing fixed cost contracts (such as the main engineer, procure and construct (EPC) contract) or securing debt-term commodity contracts that are sufficiently hedged against future variations such as gas and carbon prices. VPI is aware of these and would take action to avoid or mitigate such issues.</p> <p>On a wider scale potential changes in UK energy policy or in support mechanisms (e.g. Capacity Market structure) could create uncertainty in the financing market.</p> <p>Fundamentally however the Project is not high risk (being a well-known and common technology) and is very likely to be brought forward through funding from a secure source i.e. being National Grid / the UK Government, through the Capacity Market which is an established process for bringing new power generation capacity to the market. These are significant factors in favour of the Project being readily fundable.</p>
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.	Please see response to Q2.2.6 below
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.	Please see response to Q2.2.6 below
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.	Please see response to Q2.2.6 below

Ref No.	Respondent	Question	Response
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>	<p>As confirmed in the updated CA Schedule submitted at Deadline 3a, the Applicant has established that Cadent's interests in Plot 107, Plot 111 and part of Plot 109 (being the land now inside its security fence) are not needed to operate the Proposed Development and therefore compulsory acquisition powers over the relevant areas can be excluded from the DCO.</p> <p>The updated Land Plans (Document Ref: 4.2) were sent to Cadent on 8 November 2019. The Book of Reference (Document Ref: 4.5) and the Land Plans have been updated to reflect the agreed position, copies of which have also been submitted as part of the Applicant's submissions to this Deadline 4. The Applicant understands that on the basis of these agreed changes Cadent intends to withdraw that part of its objection relating to these Plots.</p> <p>As the Order land is also shown on the Access and Rights of Way Plans (Document Ref: 4.4) it is also necessary to update this document, and they are also submitted at Deadline 4. Consequential updates will also be made to the Draft DCO at Deadline 5 (to remove references to Plots 107 and 111).</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>	<p>Please see response to Q2.2.6 above</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>	<p>The Applicant does anticipate including protective provisions in favour of Cadent to the extent appropriate (given that its apparatus is solely within the Order land, not the Order limits), and has commented on the form of the provisions provided by Cadent. The Applicant is awaiting a response on this mark-up.</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>	<p>Phillips 66's submission at Deadline 3 (Document Ref. REP3-017, at paragraph 4.7) stated that there are two ways in which the rights sought over the Existing Gas Pipeline are wider than those enjoyed by VPI LLP through the Existing Arrangements – the rights sought are unconstrained in their operation, and secondly they are not time limited. This second point is addressed below at Q2.2.15.</p> <p>In relation to the contention that the new rights sought by the Applicant are wider, as they are unconstrained, this is correct if the Draft DCO is viewed in isolation. The Existing Arrangements contain various obligations on the tenant (VPI LLP) which constrain the rights which the tenant has. However the Applicant has issued a form of Proposed Protection Agreement to Phillips 66, and this provides constraints on the Applicant, in exercising rights in relation to the Existing Gas Pipeline, which match those provided in the Existing Arrangements. The Applicant has not received a mark-up of this draft document from Phillips 66 (the parties have been concentrating on the proposed draft property agreements), and is not therefore aware as to whether there are issues with the Proposed Protection Agreement.</p> <p>In relation to the second part of the Question, the Applicant's proposal for protecting HOR was via the Proposed Protection Agreement, which as noted in the Applicant's Deadline 3 submissions was based heavily on the form of the obligations in the Existing Arrangements.</p> <p>The Applicant recognises that it cannot unilaterally require P66 to enter into the Proposed Protection Agreement, or it may be the case that the parties could not agree its terms (without prejudice to the Applicant's view that the form of agreement proposed achieves the protection required for HOR, and should therefore be acceptable).</p> <p>The Applicant has therefore drafted a set of protective provisions and which are attached at Appendix 1 to this document. These are intended to be used only in the event that the parties: 1. cannot agree the form of the property agreements which are under negotiation between them (and which will incorporate all relevant protections); or 2. cannot agree those property agreements or the form of the Proposed Protection Agreement. These protective provisions would then supplement</p>

Ref No.	Respondent	Question	Response
			<p>those already included at Part 4 of Schedule 9, with the existing ones providing protection in relation to P66's apparatus within the Order limits, and these further protective provisions doing so in respect of P66's other land interests (i.e. HOR, and the land in and around the Existing VPI CHP Plant).</p> <p>As these are protective provisions which could be included in the DCO by the Secretary of State (if granted), the protection can be achieved unilaterally.</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> <p>Please comment on the sufficiency of the protective provisions included in Part 4, Schedule 9 of the revised dDCO [REP3-003].</p>	See the response to Q2.2.9 above.
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].	See the response to Q2.2.9 above.
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.	N/A
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.	The Applicant's proposed property agreements, Proposed Protection Agreement, and additional protective provisions all include terms to ensure that P66 is in no different position to that which it is in now, in terms of being able to require the lift and shift of relevant infrastructure, in appropriate circumstances. The Applicant therefore considers that any concern P66 had regarding its potential future operation or development at HOR is no longer applicable, and has been mitigated.
Q2.2.14	Phillips 66 Limited/ Applicant	Please provide an update on discussions.	See the updated Compulsory Acquisition Schedule submitted at Deadline 4.
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.	<p>The Applicant has, as is common for similar projects, sought powers to acquire new rights over land to deliver and operate the Proposed Development, and which are not time limited.</p> <p>The Existing Arrangements were put in place reflecting the commercial agreement between the parties, and which is informed by matters which are not connected to the Proposed Development or DCO (such as the wider commercial relationship between Phillips 66 and VPI LLP). The date of 2047 was agreed between the parties, in that context.</p> <p>The Proposed Development is expected to have a design and operational life of 40 or more years, as noted in the Environmental Statement (see for instance Chapter 4, paragraph 4.6.1, Document Ref. App-033), which clearly would be well beyond 2047. It is common for operators of power stations to assess the position of the power station at intervals during its lifetime, considering the costs of continuing to maintain and operate the plant against the potential income, and any other relevant factors. It is common for power stations to undergo significant maintenance overhauls to prolong their operational life, where the investment is warranted and will produce a return. It is not therefore possible to identify at this stage how long the power station will operate for - it could be shorter or longer than the 40 year period, as noted in the ES. Such a decision would obviously be made for the operator if the rights required to operate the power station (including the right to secure a supply of gas) were time limited.</p> <p>It is therefore appropriate to provide for the acquisition of rights which are not time limited, to allow the Proposed Development to operate for as long as it can, thereby realising its benefits (set out in the Statement of Reasons, Document Ref. APP-008) over the longest possible period.</p>

Ref No.	Respondent	Question	Response
			The constraints and measures proposed by the Applicant, such as lift and shift, mitigate the impact of the permanent rights sought. It is also relevant that compensation is payable in respect of the compulsory acquisition of new rights, and which would reflect the nature of rights sought.
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]).	See the responses to Q2.2.9 and Q2.2.13 above.
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.	<p>The majority of the terms of the Proposed Protection Agreement are based on the form of leases currently in place between P66 and VPI LLP and in particular on the obligations in those on the tenant (VPI LLP) - a copy of one of these leases was provided by P66 with its Written Representation (Document Ref. REP2-024). The other terms are considered to be commercially confidential.</p> <p>The Proposed Protection Agreement would only be secured if entered into as a contract between the parties. The Applicant does not propose that the DCO secures it. However as noted above (Q2.2.9) the Applicant has now proposed, if required, protective provisions which would replace the Proposed Protection Agreement and which are provided to the examination (at Appendix 1).</p>
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.	<p>A claim for statutory blight in respect of the Proposed Development can only be sustained if:</p> <ul style="list-style-type: none"> (a) the affected land is included in the dDCO; (b) the owner has: <ul style="list-style-type: none"> (i) an interest in a hereditament or part of a hereditament, or an agricultural unit, or part of an agricultural unit; (ii) has an interest that is either freehold or a tenancy granted or extended for a term of years certain of which at the date of service of the blight notice not fewer than three years remain unexpired; and (iii) is an owner occupier; and (c) the owner would be unable to sell its interest except at a price substantially lower than that reasonably expected to be obtained if no part of the hereditament or agricultural unit were comprised in the dDCO. <p>There are two classes of owner-occupier of hereditaments in respect of statutory blight:</p> <ol style="list-style-type: none"> 1) resident owner-occupier i.e. an individual who occupies the whole or a substantial part of the hereditament as a private residence during the whole of the six month period mentioned above, or 2) owner-occupier, other than a resident owner-occupier, who has occupied the whole or a substantial part of a hereditament that has, on the date the notice is served, an annual value not exceeding £36,000. <p>In respect of the OCGT Power Station Site, the land is currently undeveloped and unoccupied and therefore does not meet the owner/occupier criterion at (b)(iii) above. In respect of all other interests in the Order Limits, the Applicant confirms that there are no residential owner occupiers and in respect of all non-residential owner occupiers, all of those interests have rateable annual values exceeding £36,000 and as such, do not qualify for statutory blight.</p> <p>In respect of all owner occupiers with qualifying interests outside the Order Limits but within the Order Land and along the length of the Existing Gas Pipeline, the rights sought over these interests will not alter and/or affect the current enjoyment and/or value of the land. The Existing Gas Pipeline was in situ before the dDCO and therefore it is very unlikely to be the case that an owner would be unable to sell its interest except at a price substantially lower than that reasonably expected to be obtained, if no part of the hereditament or agricultural unit were comprised in the dDCO. The rights sought over these interests are the same as the pre-existing rights in favour of VPI LLP, for the same existing infrastructure, and will therefore have a very limited if any effect on the market value of any affected interests..</p>

Ref No.	Respondent	Question	Response
Q2.2.19	Network Rail/ Applicant	Please provide an update on discussions.	See the updated Compulsory Acquisition Schedule submitted at Deadline 4.
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?	If agreement could not be reached between the parties, the Applicant would include appropriate protective provisions in Schedule 9 to the Draft DCO. The Applicant anticipates being able to reach agreement.
Q2.2.21	Applicant	Please comment on the suitability of the Protective Provisions proposed by Network Rail in its Written Representation [REP-022]. Please explain any areas of particular concern.	The Applicant has been liaising with Network Rail to agree the terms of a deed of easement to enable the Applicant to use the existing pipeline located on Network Rail's land. As no works to the pipeline or on, or in proximity to, Network Rail's land are to be authorised by the DCO, the Applicant does not consider that Network Rail's standard protective provisions (included in REP-022) are suitable in the circumstances. The Applicant and Network Rail have agreed to focus on agreeing the terms of the deed of easement as opposed to negotiating the protective provisions. Once the deed of easement has been entered into, the Applicant will commit to not exercising any compulsory acquisition powers in respect of Network Rail's land. The Applicant considers that this approach will provide sufficient protection for Network Rail's undertaking.
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.	N/A
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.	N/A
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.	<p>The Applicant has proposed to National Grid that its liability pursuant to the indemnity is capped, as noted. The Applicant considers that this position is appropriate in the context of the works proposed, and the risks arising.</p> <p>The Applicant has considered the extent and nature of its works that would be authorised by the DCO, and the location, nature and role of the National Grid apparatus in the vicinity of the Applicant's works. The Applicant considers that in reality a cap on the indemnity is not likely to impose any losses on National Grid, as any losses would be covered by the extent of indemnity offered. This includes consideration of the fact that the DCO would not authorise works anywhere in the vicinity of any National Grid Gas apparatus (as these are located within the Order land, not the Order limits, at the western end of the Existing Gas Pipeline), and the single sub-station and associated overhead lines which are the sole NGET assets within the Order limits.</p> <p>National Grid notes in its representation that the Secretary of State determined that the Canal and River Trust (CRT) should benefit from an uncapped indemnity, in relation to the Eggborough CCGT project. It is significant that this was decided in the context of the CRT's charitable status, a point which was heavily emphasised by the CRT in its representations on that project. National Grid is of course not a charity, and comprises commercial entities operating within a regulatory framework (respectively as relevant to the grid and gas businesses).</p> <p>The Proposed Development, as for any similar project, will depend on being commercially viable in order for financial close (i.e. funding contractually committed) to be achieved. This financial viability will be dependent on the commerciality of the project and any risk linked to its implementation. The Applicant strives - in all negotiations as part of this project and as part of its wider business dealings - to limit financial risks such as uncapped indemnities that could add unnecessary risk into the financing of the relevant project, including this one. To that end, the Applicant has worked with all parties with whom it is contracting to find a fair and proportionate solution in its negotiations. Avoiding uncapped indemnities will be important to any investor and will ensure financial close is more likely to be accomplished.</p>
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	The Applicant is prepared to consider ADR techniques where appropriate and notes that this approach is encouraged by Compulsory Acquisition guidance and by guidance published by the Lands Tribunal in respect of disputes relating to compensation.

Ref No.	Respondent	Question	Response
		on whether such techniques are appropriate to deploy for this project and if not, why not.	The Applicant has included arbitration provisions in the Draft DCO (article 42) and provisions governing the determination of disputes in relevant protective provisions in Schedule 9. The Applicant will discuss potential ADR techniques with each affected party as appropriate.
Q2.2.26	Hornsea 1 Limited	Please provide an update on discussions.	See the updated Compulsory Acquisition Schedule submitted at Deadline 4.
Q2.2.27	Hornsea 2 Companies	Please provide an update on discussions.	See the updated Compulsory Acquisition Schedule submitted at Deadline 4.
Q2.2.28	Air Products (BR) Limited	Please provide an update on discussions.	See the updated Compulsory Acquisition Schedule submitted at Deadline 4.
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].	N/A
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?	If agreement could not be reached between the parties, the Applicant would consider the potential need to include appropriate protective provisions in Schedule 9 to the Draft DCO. The Applicant anticipates being able to reach agreement.
Q2.2.31	CLH Pipelines	Please provide an update on discussions.	See the updated Compulsory Acquisition Schedule submitted at Deadline 4.
Q2.2.32	Applicant	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. Please provide a timetable of engagement with the relevant undertakers with whom agreement of the protective provisions is outstanding.	The Applicant anticipates that outstanding protective provisions will be agreed by Deadline 6 and will continue to update the Examining Authority.
Q2.2.33	Applicant	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. Please include appropriate references in Schedule 11 of the dDCO [REP3-003].	The Applicant will update the references in Schedule 11 and these will be reflected in the Draft DCO to be submitted at Deadline 5.
Q2.2.34	Total Lindsey Oil Refinery	Please comment on the protective provisions included in Schedule 9, Part 9 of the revised dDCO submitted at Deadline 3 [REP3-003].	N/A
Q2.2.35	Total Lindsey Oil Refinery	Please provide an update on discussions.	See the updated Compulsory Acquisition Schedule submitted at Deadline 4.
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.	The Applicant will amend these references in the next Draft DCO to be submitted at Deadline 5.
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.	This matter is not yet agreed between the Applicant and North Lincolnshire Council. Please see Section 24 of the draft Statement of Common Ground with North Lincolnshire Council (Rev 4.0) (Document Ref: 8.1), which forms part of the Applicant's Deadline 4 submission.
5.	Design Layout and Visibility		
Q2.5.1	Ministry of Defence	Please provide a response to ExA Q1.10.1 [PD-007] (which is reproduced below for ease of reference).	No comment necessary.

Ref No.	Respondent	Question	Response
		<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>	

APPENDIX 1 – P66 PROTECTIVE PROVISIONS

FOR THE PROTECTION OF PHILLIPS 66 LIMITED

57. In this Part of this Schedule—

"applicable legislation" means European Union directives and regulations, statutes, regulations or subordinate or local legislation or notices or other requirements or directions of any relevant body (including any public body or agency or other authority) and any formal guidance notes or codes of conduct issued by or under the same, and common law but only in so far as the same are valid and have the force of law relating to:

- (a) the use of or any activity on the pipeline corridor; or
- (b) any process, conduct or activity (including without limit treatment, transport, storage, disposal or re) involving any hazardous material on under above in or about the pipeline corridor; or
- (c) the health and safety of employees, visitors, contractors and other persons at or in the vicinity of the pipeline corridor; or
- (d) the exercise of the specified rights; or
- (e) otherwise the protection of the environment; or
- (f) any requirement pertaining to reporting, notification or disclosure of information to any body or person concerning any matter referred above;

"CHP land" means the land on which the VPI Immingham CHP power station is sited as at the date of this Order, at Rosper Road, near Immingham;

"contamination" means any contamination of the HOR land by hazardous material which harms or damages or otherwise adversely affects or presents a significant risk of harm or damage or other adverse effects or a significant possibility of such harm or damage or other adverse effects to the environment

or in relation to controlled waters the presence of substances which cause or are likely to cause pollution of controlled waters;

"controlled waters" has the meaning given to it in Section 104 of the Water Resources Act 1991;

"decision" means the decision of the relevant local planning authority (or of an inspector appointed by the Secretary of State to decide an appeal lodged against the local planning authority's decision) to grant or refuse (as the case may be) the P66 planning permission;

"described land" means any land owned by or acquired by P66 as lies within the limits of lateral deviation authorised by a P66 planning permission;

"development" has the meaning given to it by section 55 of the Town and Country Planning Act 1990;

"development plan" means the development plan or a local plan operative in respect of any part of the described land following adoption of it by the local planning authority;

"diversion route" means the route to be agreed or determined in accordance with paragraph 80 of this Part of this Schedule;

"good industry practice" means the standards and practice which would reasonably and ordinarily be expected from a skilled and experienced operator of the relevant apparatus or infrastructure in the United Kingdom;

"hazardous material" means any substance (whether in solid, liquid or gaseous form) which alone or in combination with others is capable of polluting the environment or capable of causing significant harm to the environment;

"P66 planning permission" means a planning permission within the meaning of Section 336 of the 1990 Act;

"pipeline corridor" means the corridor within which the undertaker acquires any specified rights;

"planning application" means an application for a P66 planning permission;

"HOR land" means such land as from time to time forms part of P66's Humber Oil Refinery;

"relevant plan provision" means a policy or provision contained in a development plan restricting development or to the effect that no development may be carried out in some part of the described land where either (i) the policy or provision is included for any reason related to the position of the VPI apparatus; or (ii) the decision to apply the policy or provision to that part of the described land was made for any reason related to the position of the VPI apparatus;

"scheme of works" means such works designed to investigate, rectify, remove and/or treat and render harmless contamination and its effects including making good any damage caused in so doing;

"specified rights" means the rights as may be acquired by the undertaker in any part of the HOR land pursuant to the powers in Part 5 of this Order;

"VPI apparatus" means gas pipes, water pipes, electricity cables and other conducting media and associated supports, gantries, bridges, ladders, steps, gantries, walkways, cables, poles and stays, security cameras and ancillary equipment necessary for conducting steam, heat, electricity, gas, water,

sewage, energy, telecommunications, data and all other services and utilities for the transport of all or any utilities;

General Provisions

58. (1) In the exercise of the specified rights the undertaker must:

- (a) take all reasonable and proper precautions to ensure that damage to property located on the HOR land is minimised or avoided so far as reasonably practicable including to any structures in, on or under that land or to any drains or other conducting media on or under it;
- (b) cause the least practicable disturbance to or interference with the business and operations of P66;
- (c) ensure that all maintenance work is carried out under the supervision of an engineer acting on behalf of the undertaker who will appoint a local representative to supervise the execution of the works and to maintain contact with P66;
- (d) provide P66 with the name, address and telephone number of the person appointed under subparagraph (c); and
- (e) accept responsibility for the actions and omissions of its contractors and of their sub-contractors and of all persons employed in connection with works, except for actions carried out or omissions directed expressly at the request of P66.

59. The undertaker must with all practicable speed reinstate and put any part of the HOR land opened or broken up in the exercise of the specified rights into as good a condition in all respects so far as is reasonably practicable as it was in before it was opened or broken up.

60. The undertaker must following a written request by P66 replace or restore any growing crops, trees, hedges, bushes or plants removed in the exercise of the specified rights, except where in the reasonable opinion of the undertaker they may cause damage to the VPI apparatus.

61. The undertaker must keep the VPI apparatus in good and substantial repair and condition in accordance with good industry practice.

62. In exercising the specified rights the undertaker must at its own cost comply with all applicable legislation.

63. The undertaker must as soon as reasonably practicable following a written request from P66 provide written information in relation to the VPI apparatus, the pipeline corridor, compliance with applicable legislation, or the exercise of the specified rights or any activity incidental thereto, in each case as P66 may reasonably require.

64. The undertaker must indemnify P66 against losses incurred or sustained directly as a consequence of or in connection with any breach of any of obligations on the part of the undertaker in this Part of this Schedule or any act or omission of the undertaker, its employees, contractors or agents or any person acting expressly or impliedly with the undertaker's authority or permission including all costs and expenses incurred by P66 in connection with any steps it may take to remedy any breach by the undertaker under this Part of this Schedule.

65. The undertaker must permit P66 and its agents, contractors and workmen and others authorised by P66 with all necessary plant, machinery and equipment at all times in cases of emergency and otherwise

at any reasonable times on reasonable prior written notice to enter the pipeline corridor for such period as is reasonably necessary to examine the pipeline corridor;

66. P66 must take all reasonable and proper precautions to ensure that in undertaking any examination pursuant to paragraph 65 any damage to the VPI apparatus is avoided or minimised.

67. (1) P66 must:

(a) not erect construct or place any building or structure, carry out any excavation or plant or suffer to be planted or otherwise permit to subsist any trees on the pipeline corridor without the written consent of the undertaker.

(b) not materially raise or lower the existing level of the surface of the pipeline corridor without the written consent of the undertaker.

(c) not undermine or damage the VPI apparatus, the pipeline corridor or take such other action as may interfere with the use and free flow and passage of the relevant media through the VPI apparatus or to do anything which would reasonably foreseeably inhibit or prevent the undertaker from complying with this Part of this Schedule.

(d) on all occasions when P66 may suffer any loss or anticipate or receive any third party claim against it resulting from any action by the undertaker or in any way arising out of the existence of the VPI apparatus P66 will use all reasonable endeavours to mitigate its losses.

(e) have due regard in the light of information made available in writing by the undertaker and to the safety and integrity of the VPI apparatus in carrying out operations on the HOR land.

68. The undertaker must take all reasonable precautions to ensure that other than authorised discharges no hazardous material leaks, spills or escapes are discharged from the VPI apparatus and that no

contamination will occur as a result of the use by the undertaker of the pipeline corridor or the exercise of its specified rights.

69. (1) The undertaker must indemnify and keep P66 indemnified from and against all losses incurred in respect of any contamination in or on the pipeline corridor or which escapes or migrates from the pipeline corridor to the HOR land which relates to the exercise of the specified rights.

(2) The undertaker is not liable under sub-paragraph (1) in respect of any contamination unless P66 gives written notice to the undertaker providing reasonable particulars of the basis of its claim including an estimate of the amount of such claim.

(3) P66 must give written notice under sub-paragraph (2) as soon as reasonably practicable and in any case within seven days of becoming aware of any contamination.

70. (1) If during the exercise of the specified rights it appears to the undertaker that there is contamination in or on the pipeline corridor the undertaker must give written notice of such contamination to P66.

(2) On receipt of such written notice under sub-paragraph (1) the undertaker and P66 may jointly instruct environmental consultants in terms agreed between the parties to produce and implement a scheme of works.

71. P66 must use its reasonable endeavours to comply at the cost of the undertaker and (save in the case of emergency) upon notice with all reasonable written requests of the undertaker in relation to the use of the pipeline corridor that are requested for the safety and protection of the VPI apparatus.

72. (1) Subject to sub-paragraph (2) P66 must not make any admission of liability to a third party making or bringing a claim, demand or proceedings or settle or compromise it without the consent in writing of the undertaker, such consent not be unreasonably withheld or delayed.

(2) Sub-paragraph (1) does not apply to the extent that such conduct is contrary to what is required by law or by any authority or compliance with the sub-paragraph would have an adverse effect on the liabilities or goodwill of P66.

(3) The undertaker is entitled, with the consent of P66 (such consent not to be unreasonably withheld or delayed unless to give such consent might reasonably be considered likely to have a materially adverse effect on the liabilities or goodwill of P66), to negotiate a settlement of any claim, demand or proceedings against P66 and to conduct on behalf of P66 any litigation which may arise in respect of the claim, demand or proceedings.

Diversion Provisions

73. In the following provisions of this Part of this Schedule the described land excludes the CHP land unless and until P66 has permanent occupational control of the CHP land.

74. If P66 wishes to carry out any development of the described land it must:-

(1) supply to the undertaker full details of the proposed development in writing as soon as reasonably possible and in any event not less than two months before the submission of the planning application for the proposed development and keep the undertaker reasonably informed in writing of the progress of the planning application; and

(2) have due regard to any reasonable proposals of the undertaker for the purpose of safeguarding the VPI apparatus and minimising the interference to the VPI apparatus and its use; and

(3) use its reasonable endeavours with the assistance (if requested) of the undertaker (whose assistance is to be at no cost to P66) to arrange the development so as to avoid the diversion of the VPI apparatus,

and must consult with the undertaker and have due regard to the undertaker's comments and representations.

75. P66 must submit a copy to the undertaker of any P66 planning permission for development in on over or under the described land within a period of 28 days of receipt of the decision.

76. If following consultation under paragraph 74 a P66 planning permission is granted but the development is prevented for any reason relating to the presence or position of the VPI apparatus or by such P66 planning permission being made subject to a condition which prevents the development for any reason related to the position of the VPI apparatus or renders it unviable or planning permission for the development is refused for any reason related to the position of the VPI apparatus or the existence or effect of a relevant plan provision, then P66 must give written notice to the undertaker stating whether or not it requires the diversion of the VPI apparatus or part of the VPI apparatus.

77. Any diversion of the VPI apparatus pursuant to paragraph 76 must be only the extent of diversion that is required in order to ensure that the development notified by P66 to the undertaker pursuant to paragraph 74 is not prevented.

78. (1) Following receipt of the notice under paragraph 76 the undertaker must confirm in writing to P66 within three months of the date of receipt of the notice whether or not it will:

(a) carry out such works to the VPI apparatus as may be necessary so that the position of the VPI apparatus does not materially affect the development; or

(b) divert the VPI apparatus or part of it along the diversion route.

79. (1) If P66 obtains a P66 planning permission for the development but does not give notice in accordance with paragraph 76 it must nevertheless notify the undertaker that a P66 planning permission has been obtained and provide a copy of it to the undertaker.

(2) If following receipt of the notice under sub-paragraph (1) the undertaker is of the reasonable opinion that the development would be likely to cause damage to the VPI apparatus or any interference with the exercise of the specified rights it may at its sole cost and expense divert the VPI apparatus or part thereof along the diversion route or carry out any such works as are described in sub-paragraph 78(1)(a).

(3) Where the undertaker elects to carry out works under sub-paragraph (2) it is not required to implement any such works before the expiry of the period of six months from the date of the notice under sub-paragraph (1).

80. The diversion route must be within the described land and must be agreed between P66 and the undertaker.

81. If the VPI apparatus is to be diverted under any paragraph of this Part then P66 must grant the necessary rights to the undertaker to carry out the diversion, and to maintain and use the relevant diverted VPI apparatus.

82. If there is a dispute about the diversion route or the rights to be granted pursuant to paragraph 81 then either party may refer the matter to an expert for determination under paragraph 55 of this Part of this Schedule.