

Viking CCS Pipeline

6.6 Statement of Statutory Nuisance

Document Reference: EN070008/APP/6.6

Applicant: Chrysaor Production (U.K.) Limited,
a Harbour Energy Company
PINS Reference: EN070008
Planning Act 2008 (as amended)
The Infrastructure Planning (Applications: Prescribed Forms
and Procedure) Regulations 2009 - Regulation 5(2)(f)
Date: October 2023

PINS Reference	Document Reference	Document Revision	Date
EN070008	EN070008/APP/6.6	Revision 1	October 2023

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1 Statement of Statutory Nuisance

1.1 Background

- 1.1.1 The Viking CCS Pipeline ('the Proposed Development') comprises a new 24 " (609 mm) diameter onshore pipeline of approximately 55.5 km in length, which will transport Carbon Dioxide (CO₂) from the Immingham industrial area to the Theddlethorpe area on the Lincolnshire coast, where it will connect into the existing 36 " (921 mm) diameter offshore LOGGS pipeline.
- 1.1.2 The Proposed Development is an integral part of the overall Viking CCS Project, which intends to transport compressed and conditioned CO₂ received at a facility at Immingham to store in depleted gas reservoirs under the Southern North Sea. The offshore elements of the Viking CCS Project, including the transport of CO₂ through the LOGGS pipeline to the Viking gas fields under the North Sea, are subject to a separate consenting process.
- 1.1.3 The key components of the Proposed Development comprise:
- Immingham Facility;
 - Approximately 55.5 km 24 inch (") onshore steel pipeline (including cathodic protection);
 - Three Block Valve Stations;
 - Theddlethorpe Facility;
 - Existing LOGGS pipeline and isolation valve to the extent of the Order Limits at Mean Low Water Springs (MLWS);
 - Permanent access to facilities;
 - Mitigation and landscaping works;
 - Temporary construction compounds, laydown, parking and welfare facilities;
 - Temporary access points during construction.
- 1.1.4 Further details of each element of the Proposed Development are set out in *Environmental Statement Volume II Chapter 3 Description of the Proposed Development (Application Document 6.2.3)*.
- 1.1.5 The Proposed Development meets the criteria defining national significant infrastructure projects and consent is therefore being applied for under the Planning Act 2008.
- 1.1.6 The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 require Development Consent Order (DCO) applications to be accompanied by (among other documents) a Statement of Statutory Nuisance (regulation 5(2)(f)), which states:
- '(2) The application must be accompanied by -*
- '(f) a statement whether the proposal engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefore) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them.'*
- 1.1.7 This Statement therefore sets out the matters in Section 79(1) of the Environmental Protection Act (EPA) 1990 in respect to statutory nuisance, the potential of the project to cause statutory nuisance and the measures that have been incorporated into the project to mitigate any such potential nuisances.

1.1.8 This Statement should be read alongside the Environmental Statement (ES), including the Draft Construction Environmental Management Plan (CEMP), which is included within *ES Volume IV Appendix 3.1 (Application Document 6.4.3.1)*. The mitigation register within the Draft CEMP includes good practice measures and mitigation required to reduce potentially significant effects. Good practice measures set out in the Draft CEMP are secured through DCO requirements.

1.2 Environmental Protection Act 1990

1.2.1 Section 79(1) of the EPA 1990 states that the following matters constitute “statutory nuisances”:

- (a) any premises in such a state as to be prejudicial to health or a nuisance;*
- (b) smoke emitted from premises so as to be prejudicial to health or a nuisance;*
- (c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;*
- (d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;*
- (e) any accumulation or deposit which is prejudicial to health or a nuisance;*
- (f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance;*
- (fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;*
- (fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance;*
- (g) noise emitted from premises so as to be prejudicial to health or a nuisance;*
- (ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street; and*
- (h) any other matter declared by any enactment to be a statutory nuisance.*

and it shall be the duty of every local authority to cause its area to be inspected from time to time to detect any statutory nuisances which ought to be dealt with under section 80 below or sections 80 and 80A below and, where a complaint of a statutory nuisance is made to it by a person living within its area, to take such steps as are reasonably practicable to investigate the complaint.’

1.2.2 Sections 79(2) and onwards contain exceptions to the above statutory nuisances.

2 Potential to Cause Statutory Nuisance

2.1 Screening of Topics

2.1.1 Matters that have the potential to constitute ‘statutory nuisances’ that are not applicable to the Proposed Development have been screened out of this Statement.

2.1.2 As per Section 1.2, ‘statutory nuisance’ is a state of affairs that is ‘prejudicial to health’ or a ‘nuisance’. The findings of the environmental impact assessment have been drawn on to inform this statement, but it is acknowledged that the legal standard of what constitutes a statutory nuisance is different to what may be a significant environmental effect under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

2.1.3 Paragraphs (a), (b), (c), (e), (f), (fa), and (h) of Section 79(1) of the EPA 1990 are deemed to not be applicable to the project and are therefore not considered within this Statement due to the following:

- (a) There would be no premises in such a state so as to be prejudicial to health or nuisance. Measures to avoid and/or control construction activities which have the potential to be prejudicial to health or create nuisance are included in the Draft CEMP. During the construction and operation of the proposed development, the project is not predicted to cause a nuisance or be prejudicial to health.
- (b) No burning of waste materials would be permitted on site. Smoke would not be emitted to cause a nuisance or be prejudicial to health during construction or operation of the project.
- (c) Emission of fumes and gases applies only to private dwellings (as noted in Section 79 (4) of the Act) and is therefore not relevant to the project.
- (e) The waste produced on the project is expected to be low. Accumulations or deposits of excavated material or waste are not predicted to cause a nuisance or be prejudicial to health during construction or operation of the project.
- (f) No animals would be kept on-site as part of the project during construction or operation. Animals are not predicted to cause a nuisance or be prejudicial to health during construction or operation of the project.
- (fa) No materials would be stored on-site which could attract insects which could cause a nuisance or be prejudicial to human health. Any food waste from the construction compounds would be removed off-site. Any insects emanating from a premises are not predicted to cause a nuisance or be prejudicial to health during construction or operation of the project.
- (h) There are no other matters or elements of the project which could be considered to be a statutory nuisance.

2.1.4 The only matters included in Section 79(1) of the EPA 1990 that could potentially arise as a consequence of the project are:

- (d) relating to dust, steam, smell or other effluvia (where emanating from industrial trade or business premises);
- (fb) relating to artificial light;
- (g) and (ga) relating to noise (which for the purposes of the above, includes vibration).

2.1.5 The following sections outline the activities that have the potential to cause a statutory nuisance under the EPA 1990, that is, they could be prejudicial to health or are a nuisance. Measures that have been incorporated into the project to reduce the potential for such effects are also set out in the following sections.

2.2 Relating to Dust, Steam, Smell or Other Effluvia (Section 79(1)(d))

Construction

2.2.1 Where emanating from industrial trade or business premises, some of the construction activities have the potential to generate dust emissions that could give rise to a statutory nuisance. These would be limited to the excavation, stockpiling and replacement of soil associated with the pipeline trench and driving construction vehicles along temporary haul routes. These could affect human receptors in the vicinity of the project. It is not anticipated

that construction activities would give rise to any material amounts of steam, smell or other effluvia.

- 2.2.2 An assessment of the potential effects of dust generated during construction has been undertaken and is reported in *ES Volume II Chapter 14 Air Quality (Application Document 6.2.14)*. The chapter was prepared to assess the potential risk of causing adverse effects at sensitive receptors. As described in Section 14.4 of the chapter, and *ES Volume IV Appendix 14.1 (Application Document 6.4.14.1)*, the construction dust and particulate matter assessment follows the step-by-step approach set out in relevant Institute of Air Quality Management guidance. On the basis that all construction activities will adhere to the mitigation measures listed in this chapter and within the Draft CEMP (*ES Volume IV Appendix 3.1 (Application Document 6.4.3.1)*), the potential magnitude of impacts will be lowered so the residual significance will be negligible to minor adverse. These are therefore classed as not being significant.
- 2.2.3 Taking account of the mitigation measures proposed, it is assessed that there would be no statutory nuisance related to dust, steam, smell or other effluvia during the construction phase of the Proposed Development.

Operation

- 2.2.4 As outlined in *ES Volume II Chapter 14 Air Quality (Application Document 6.2.14)*, the operational effects of the Proposed Development on air quality are expected to be similar to the baseline situation. There are unlikely to be any significant effects on air quality and this was scoped out from requiring assessment. Operation of the pipeline is not anticipated to generate dust, steam, smell or other effluvia which could cause a nuisance or be prejudicial to health and thus would not create a statutory nuisance.

2.3 Artificial Light (Section 79(1) (fb))

Construction

- 2.3.1 Temporary artificial lighting would be required to illuminate the construction compounds areas and temporary laydown, parking and welfare areas during pipeline installation, to aid safety and to provide security to the site. Site lighting may also be required for some non-standard working arrangements. All lighting will be low-level and directional to avoid any potential for glare into residential properties.
- 2.3.2 The Draft CEMP (*ES Volume IV Appendix 3.1 CEMP (Application Document 6.4.3.1)*) includes measures relating to artificial lighting, such as measure C5 “*There would be static lighting points fixed to temporary structures such as the masts, cabins, workshops, gantry cranes and silos. These would be used to illuminate regularly used work areas, the car park and access areas. Baffles would be installed on all lighting columns and light is to be angled to face works*”.
- 2.3.3 With this measure in place, the potential for the temporary lighting to cause a nuisance would be low and there is no likelihood of the temporary lighting being injurious to health.

Operation

- 2.3.4 During the operational phase the Immingham Facility would be lit outside of daylight hours, similar to the existing VPI Immingham and Phillips 66 site in the immediate vicinity.
- 2.3.5 Block Valve Stations would be unlit except during maintenance or potential breakdown/emergency requirements, when task lighting columns (approximately 4 m high) would be employed.
- 2.3.6 The Theddlethorpe Facility will be unmanned, and so lighting requirements are minimal. Maintenance visits would be undertaken during daylight hours. The lighting requirements at

this site are to be confirmed, however, should there be an exceptional or emergency circumstance, the facility would have additional lighting available or temporary lighting would be brought on to the facility for any overnight maintenance works as required.

- 2.3.7 As with construction, *ES Volume IV Appendix 3.6 Operational Phase Mitigation (Application Document 6.4.3.6)* contains mitigation measure OP5 “*Any lighting required will be designed to ensure there is no potential for impacts on neighbouring properties or habitats*”. With this measure in place, the potential for the temporary lighting to cause a nuisance would be low and there is no likelihood of the temporary lighting being injurious to health.

2.4 Noise and Vibration (Section 79(1) (g) and (ga))

Construction

- 2.4.1 Pipeline installation would include activities and equipment likely to produce noise and vibration, such as formation and use of the construction compounds, earthworks and excavations, auger units and drilling plant. Noise and vibration from the installation activities may cause significant short-term effects at a number of receptors.
- 2.4.2 The *ES Volume II Chapter 13 Noise and Vibration (Application Document 6.2.13)* identifies thresholds for significant observed adverse effect levels (SOAEL) as required by the Government’s Noise Policy Statement for England (NPSE) (Department for Environment Food and Rural Affairs (DEFRA, 2010). The assessment confirms that SOAEL is not expected to be exceeded during installation works, once committed mitigation has been applied.
- 2.4.3 To constitute a statutory nuisance, a noise must occur regularly and continue for a period of time that makes it unreasonable. The short term and transitory nature of the construction activities reduces the potential for statutory nuisance to occur.
- 2.4.4 Requirement 5 of the DCO requires that a Noise and Vibration Management Plan be prepared, for the approval of the relevant planning authority. The Noise and Vibration Management Plan would, having regard to the approved operational hours, set out the best practicable means that would be used to reduce noise and vibration during installation, where applicable.
- 2.4.5 The Noise and Vibration Management Plan would include the following details in relation to the project within the relevant local authority area:
- description of works pursuant to DCO;
 - programme;
 - plant noise and vibration data;
 - receptors, the location of which is at risk of >1.0mm/s peak particle velocity and a protocol for providing prior warning and explanation;
 - best practicable means (BPM) measures where applicable (as defined in Section 72 of the Control of Pollution Act (CoPA) 1974 for the control of noise and vibration);
 - predicted noise and vibration levels; and
 - BPM justification for short term higher noise/vibration levels or out of hours working and community communication details.
- 2.4.6 The implementation of the Noise and Vibration Management Plan would reduce the likelihood of a statutory nuisance to negligible.

Operation

- 2.4.7 As outlined in *ES Volume II Chapter 13 Noise and Vibration (Application Document 6.2.13)*, at all receptors the rating level for operational noise is predicted to be below the Lowest Observable Adverse Effect Level (LOAEL) - the level above which adverse effects on health and quality of life can be detected - and therefore noise effects are not significant.
- 2.4.8 There would be no statutory nuisance arising from operational noise from the Proposed Development.

2.5 Conclusion

- 2.5.1 This Statement identifies the matters set out in Section 79(1) of the EPA 1990 in respect of statutory nuisance and considers whether the project has the potential to cause nuisance.
- 2.5.2 The Draft CEMP (*ES Volume IV Appendix 3.1 Construction Environmental Management Plan (Application Document 6.4.3.1)*) and *ES Volume IV Appendix 3.6 Operational Phase Mitigation (Application Document 6.4.3.6)* include commitments to embedded design measures, good practice measures and additional mitigation required to reduce potentially significant effects. These would be secured through Development Consent Order requirements. These measures would reduce impacts that could otherwise result in nuisance during construction or operation. With these measures in place, no breach of Section 79(1) of the EPA 1990 is expected as a result of the Proposed Development.

