

PHILLIPS 66 LIMITED

**PROPOSED VIKING CCS CARBON DIOXIDE PIPELINE
DEVELOPMENT CONSENT ORDER**

DEADLINE 4 SUBMISSION

1. Introduction

- 1.1 We are instructed by Phillips 66 Limited (“**P66**”) in respect of the application (“**the Application**”¹) made by Chrysaor Production (UK) Limited (“**the Applicant**”) for The Viking CCC Carbon Dioxide Pipeline Development Consent Order (“**the Proposed Order**”) to authorise the construction, operation and decommissioning of a pipeline that will transport captured carbon dioxide from Immingham to the Theddlethorpe Facility, together with associated development (“**the Scheme**”).
- 1.2 The Application for the Proposed Order was submitted and is being promoted by the Applicant and has been allocated Planning Inspectorate reference EN070008.
- 1.3 This Deadline 4 submission should be read together with and alongside:
- (a) P66’s Relevant Representations (“**RRs**”) dated 15th January 2024;
 - (b) P66s Written Representations (“**WRs**”) dated 25th April 2024; and
 - (c) Comments made by P66 at ISH 1, CAH 1, and CAH 2.
- 1.4 This Deadline 4 submission:
- (a) Provides a written summary of the oral submissions made at CAH 2 on 25th June;
 - (b) Responds to the relevant action points from CAH 2; and
 - (c) Updates on negotiations with the Applicant.
- 1.5 Each of the above points are considered below in turn for ease of reference.

2. Summary of oral submissions made at CAH 2 on 25 June 2024

- 2.1 P66 owns and operates the Humber Refinery. Its operations are highly complex, heavily regulated, and extremely sensitive to disruption and interference. P66 is a major employer in the area and is key to the local industry and economy. P66 supports the principle of the Scheme and remains committed to assist in its implementation. The reason for P66s original objection to the Application related to the proposed details of the Scheme and how, in particular they impacted or may impact on P66s operations and interests. As set out in its RRs and WRs, there were essentially 5 grounds to P66s original objection. First, the Applicant was seeking compulsory acquisition and/or temporary possession powers in the Proposed Order as originally submitted over excessive amounts of P66’s interests and landholdings, greater than was necessary for the purposes of the Scheme and which would adversely impact upon P66’s operations. Secondly, the Proposed Order did not include appropriate Protective Provisions (“**PPs**”) in relation to P66s assets, landholdings and operations. Thirdly, one of the two alternative options included in the Proposed Order as originally

¹ Which term includes all documents submitted with the application.

submitted for section 1 of the pipeline from the Immingham Facility to the A180, went through the Humber Refinery site which was highly detrimental to P66s interests and operations. Fourthly, P66 were concerned as to the construction and operational impacts of the Scheme and its interrelationship with P66s operations and interests. Fifthly, P66 were concerned as to the absence of detailed review and assessment of any impact on the COMAH risk scenarios, mitigation measures and emergency response measures.

- 2.2 As to the first ground of objection, P66 welcomes Change Request 1 which removed from the Proposed Order the pipeline route option proposing to go through the Humber Refinery. As to the second ground of objection, draft protective provisions have been prepared by the Applicant and have been the subject of a number of iterative drafts between the parties. A broad consensus of agreement has now been reached on those detailed terms and it is envisaged agreement being reached on a set of protective provisions during the examination period. Accompanying the protective provisions are negotiations on a lease to enable the Applicant to voluntarily acquire the rights and interests required for the Immingham Facility component of the Scheme, the terms of which are also substantially agreed. The third element of the suite of voluntary agreements is an overarching agreement between the parties which broadly regulates: (a) the exercise of powers; (b) the proposed withdrawal of the objection; and (c) the request for protective provisions to be added to the Proposed Order.
- 2.3 All of the above documents are at an advanced stage of negotiation and it is envisaged that they will be settled shortly. Thereafter, it is a process of P66 getting the necessary internal approvals to enter into the agreements which can take between 4-6 weeks to put in place.
- 2.4 In terms of residual points, whilst it is ultimately a matter for the Secretary of State to determine when considering whether or not to make the Proposed Order, in circumstances when the Applicant will have acquired the necessary rights and interests by voluntary agreement with P66, P66 would query whether the conditions in section 122 of the Planning Act 2008 for which compulsory purchase and temporary possession powers may be authorised are met namely:
 - (a) Whether compulsory acquisition and temporary possession powers are required as a fallback for this section of the Scheme when the Applicant will have acquired through the suite of voluntary agreements with P66 the necessary rights and interests to carry out the works to construct this part of the Scheme; and/or
 - (b) Whether there is a compelling case in the public interest for the compulsory acquisition and temporary possession powers sought in these circumstances.
- 2.5 As to the fourth ground of objection, the overarching agreement proposed to be entered into between the parties proposes to constitute and operate a working group between the Applicant and P66 to act as a current and future forum to enable discussions to take place on construction and operational impacts and the interface between the Scheme and P66s interests and operations.
- 2.6 As to the fifth ground of objection, we are instructed that the Applicant is now satisfactorily engaging with P66 on COMAH related matters.
- 2.7 Overall, therefore, good progress has been made with the Applicant on agreeing the terms of the suite of voluntary agreements but unless and until these agreements have been settled, internally authorised, and completed, P66 intends to maintain its objection to the Application on a protective basis.

3. CAH 2 Actions

- 3.1 The Examining Authority (“**ExA**”) have asked P66 to clarify whether and if so what interest (if any) it has in Proposed Order Plots 36/9 to 36/11 in the Book of Reference which list P66 as having such an interest.
- 3.2 Having considered this point with P66, we can confirm that P66 does not have any interest in these Order Plots and we would ask that the Application material is therefore amended accordingly to remove such references.

4. Update on negotiations with the Applicant

- 4.1 Further to the oral submissions at CAH 2, which are summarised above, we are pleased to be able to confirm that the terms of the suite of voluntary agreements have now been agreed with the Applicant and P66s internal approvals process has also now been completed. Save for ironing out some pre completion details around the relevant plans to be appended to the suite of agreements, it is anticipated that the agreements will shortly be in a position to be legally completed whereupon it would be the intention of P66 to proceed to write to the ExA to withdraw its objection to the Application.
- 4.2 The ExA will appreciate that unless and until these agreements have been legally completed that P66 wishes to maintain its objection to the Application on a protective basis.
- 4.3 P66 will keep the ExA updated as to the position on the suite of voluntary agreements and it is very much the hope and intention of the parties to complete the suite of voluntary agreements during the currency of the examination.

Town Legal LLP

On behalf of Phillips 66 Limited

25 July 2024