

**DATED 21 FEBRUARY 2025**

**VPI IMMINGHAM LLP**

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**STATEMENT OF CASE**

**THE VPI IMMINGHAM LLP (LAND AT ROSPER  
ROAD) COMPULSORY PURCHASE ORDER  
2024**

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**Pinsent Masons**

## 1. INTRODUCTION

- 1.1 This is the Statement of Case for VPI Immingham LLP (incorporated in England and Wales with company number OC300980 whose registered office is at 4<sup>th</sup> Floor, Nova South, 160 Victoria Street, London, SW1E 5LB) (the "**Acquiring Authority**") in respect of the VPI Immingham LLP (Land at Rosper Road) Compulsory Purchase Order 2024 (the "**Order**").
- 1.2 The Acquiring Authority is the holder of an Electricity Generation Licence dated 7 June 2002 pursuant to the Electricity Act 1989 and proposes to develop a post-combustion carbon capture plant to facilitate the capture of carbon dioxide created by electricity generation processes at the adjacent VPI Immingham CHP Plant ("**Proposed Development**"). In order to construct and operate the Proposed Development, the relevant land and/or rights in the parcels of land shown edged red and coloured pink and blue on the map referred to in the Order ("**Order Land**") are required by the Acquiring Authority.
- 1.3 The Acquiring Authority does not own the Order Land and only has a leasehold interest over part of it – specifically plots 1 and 4 as shown on the Order Map. All of the plots are owned by Phillips 66, the Acquiring Authority's landlord. Negotiations for the lease of the land necessary for the Proposed Development have been ongoing since August 2021 but for the reasons set out in this Statement of Case, those negotiations have reached an impasse.
- 1.4 On 8 March 2023, the Acquiring Authority submitted a planning application<sup>1</sup> to North Lincolnshire District Council ("**LPA**") for the Proposed Development ("**Planning Application**"). The planning application is being determined under the delegated authority of the LPA subject to the completion of a section 106 agreement between the Acquiring Authority and Phillips 66 (as landowner). The draft section 106 agreement included a single obligation to submit a biodiversity net gain plan prior to commencement of development, however Phillips 66 refused to enter into the agreement on the basis that they were concerned that the obligation would pass to them on the default of the Acquiring Authority. In response to Phillips 66's concerns, the Acquiring Authority negotiated a financial contribution in lieu of the requirement to submit a biodiversity net gain plan, which would require the Acquiring Authority to pay a financial sum to the LPA prior to commencement of development. Alongside this, the Acquiring Authority offered Phillips 66 a full indemnity in respect of the financial contribution, contained in a separate deed of indemnity. Phillips 66 is now refusing to sign the deed of indemnity and the section 106 agreement, on the basis that *"[the] CPO is demanding a considerable amount of time and we need to focus our limited legal resources on the forthcoming CPO and other ongoing priority issues. Therefore, at this point we will be unable to provide*

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<sup>1</sup> PA/2023/421 for the construction and operation of a post-combustion carbon capture plant, including carbon dioxide compressor and metering, cooling equipment, stacks, substations, internal roads, partial ditch realignment, new and modified services, connections, accesses, maintenance and laydown areas.

*comments on the draft deed of indemnity*". The deed of indemnity proposed by the Acquiring Authority (which is a very simple agreement running to 9 pages in length) offers a complete solution to the perceived risk to Phillips 66 and their refusal to enter into it can only be interpreted as an attempt to prevent the grant of planning permission by the LPA. The Acquiring Authority is now negotiating a Grampian condition with the LPA, to allow for the removal of Phillips 66 as landowner from the agreement, to facilitate the grant of planning permission.

- 1.5 The Acquiring Authority has expended considerable time and cost negotiating to acquire the necessary land interests in the Order Land voluntarily, but it has become apparent that reasonably agreeable terms are unlikely to be achieved. Whilst the Acquiring Authority remains open to further discussions with the affected landowners, it has become necessary to promote the Order to unlock the benefits of the Proposed Development.
- 1.6 On 16 September 2024, the Acquiring Authority resolved to make the Order. The Order was made on the same day and was submitted to the Secretary of State for Energy Security and Net Zero (the "**Secretary of State**") for confirmation on 1 November 2024.
- 1.7 On 8 November 2024, the Secretary of State confirmed his intention to cause a local public inquiry to be held under section 13A(3)(a) of the Acquisition of Land Act 1981.
- 1.8 This Statement of Case has been prepared by the Acquiring Authority in accordance with Rule 7(1)(b) of the Compulsory Purchase (Inquiries Procedure) Rules 2007.
- 1.9 The Order, if confirmed, would authorise the Acquiring Authority to compulsorily purchase land required to construct the Proposed Development as well as rights over the adjacent VPI Immingham CHP Plant to install, retain, use, maintain, alter, replace and remove carbon capture compression and transport equipment, pipelines, cables, utilities and other services and connections and to pass services through those connections, in addition to access rights over the CHP plant to the public highway.
- 1.10 This Statement has been prepared in accordance with the CPO Guidance.

## 2. THE ENABLING POWERS

- 2.1 The Order is made pursuant to section 10 of and paragraph 1 of Schedule 3 to the Electricity Act 1989.
- 2.2 Section 10 of the Electricity Act 1989 provides that:

(1) *Subject to subsection (2) below, Schedule 3 to this Act (which provides for the compulsory acquisition of land) and*

*Schedule 4 to this Act (which confers other powers and makes other provision) shall have effect---*

*(a) In relation to the holder of a transmission licence or of an electricity system operator licence; and*

*(b) To the extent that his licence so provides, in relation to an electricity distributor or any other licence holder.*

2.3 Paragraph 1 of Schedule 3 to the Electricity Act 1989 provides that:

(1) *Subject to paragraph 2 below, the Secretary of State may authorise a licence holder to purchase compulsorily any land required for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on.*

(2) *In this paragraph "land" includes any right over land...and the power of the Secretary of State under this paragraph includes power to authorise the acquisition of rights over land by creating new rights as well as acquiring existing ones.*

2.4 On 7 June 2002 the Acquiring Authority was granted an electricity generation licence pursuant to section 6(1)(a) of the Electricity Act 1989.<sup>2</sup>

2.5 The activity which the Acquiring Authority is authorised by the electricity generation licence to carry out is to generate electricity in Great Britain for the purpose of giving a supply to any premises or enabling a supply to be so given.

2.6 The electricity generation licence granted to the Acquiring Authority incorporates a power of compulsory purchase through standard condition 14:<sup>3</sup>

***Standard Condition 14. Compulsory acquisition of land etc***

*The powers and rights conferred by or under the provisions of Schedule 3 to the Electricity Act 1989 (Compulsory Acquisition of Land etc. by Licence Holders) shall have effect in relation to the licensee to enable the licensee to carry on the activities authorised by this licence and which relate to:*

(a) *the construction or extension of a generating station;*<sup>4</sup>

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<sup>2</sup> Immingham CHP Limited Liability Partnership changed its name to VPI Immingham LLP on 23 July 2013

<sup>3</sup> OFGEM made a Modification Direction dated 1 May 2007 which applied standard condition 14 to all Electricity Generation Licences – including the Acquiring Authority's Electricity Generating Licence dated 7 June 2002. See document enclosed and referenced at paragraph 14.1(h).

<sup>4</sup> "Generating Station" is defined in SLC14 as an electricity generating station which has, or will have when its construction or extension is completed, a capacity of not less than 50 megawatts or such other capacity as may be specified in relation thereto by order of the Secretary of State under section 36(3) of the Act; and is – or will be when its extension or construction is completed – operated by or for the licensee.

- (b) *the operation of a generating station; and/or*
- (c) *the installation, inspection, maintenance, adjustment, repair, alteration, replacement or removal of electric lines, and electrical plant associated with them, and any structures for housing or coverings such lines or plant, connecting a generating station with:*
  - (i) *the national electricity transmission system; or*
  - (ii) *a distribution system-,*

*including, for the avoidance of doubt, whether these activities in sub-paragraph (c) are to be carried out by the licensee or another licence holder.*

- 2.7 Standard condition 14 enables the compulsory purchase powers in Schedule 3 of the 1989 Act to be used where the licence holder is constructing or extending a generating station or where the proposed development relates to the operation of a generating station.
- 2.8 Where the Proposed Development relates to the construction or extension of a generating station that exceeds 50MW,<sup>5</sup> then under sections 15(1) and 31 of the Planning Act 2008, the relevant consent for such a development is a development consent order and not a planning permission.
- 2.9 Where the Proposed Development relates to the operation of a generating station, then the requirements of sections 15(1) and 31 are not engaged and the Proposed Development may be consented under planning permission.
- 2.10 Whilst this creates an element of uncertainty around the consenting route for carbon capture and storage projects, what is clear is that carbon capture projects do not by their own definition fall within the section 15(1) threshold of being nationally significant infrastructure projects and therefore they only require a development consent order if so directed under section 35. In making section 35 directions for carbon capture projects, the Secretary of State has made clear that he does not consider that carbon capture projects automatically qualify as extensions of generating stations under section 15(1) of the Planning Act 2008 – if that were the case, the Secretary of State would be legally prevented from issuing a section 35 direction, as the development would automatically meet the threshold for development consent
- 2.11 This creates flexibility for developers of carbon capture projects to obtain section 35 directions where the case can be made for national significance or alternatively, to pursue planning permission under the local planning system.

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<sup>5</sup> The VPI Immingham CHP Plant has a generation capacity of 1240MW

- 2.12 Some carbon capture projects have successfully argued that they comprise an “extension” to a generating station in order to benefit from the perceived speed and certainty of the development consent regime, for example the Drax (Bioenergy with Carbon Capture and Storage) Project. The Drax project is technically distinct from the Proposed Development, as the carbon capture apparatus is comprehensively interwoven within the existing generating station, including various modifications and improvements to the existing generating station’s core components that generate electricity, representing a very different technical design and solution to the Proposed Development. In accepting Drax’s application, the Planning Inspectorate accepted that there was a sufficient interrelationship between the carbon capture elements and the generating station in order to justify its status as an “extension”. This is not the case with the Proposed Development, which utilises a different technical solution and is not interwoven with the generating station itself.
- 2.13 A more comparable project to the Proposed Development would be the Cory Decarbonisation Project. Cory, like the Proposed Development, will be situated on land immediately adjacent to the generating station that it serves, as opposed to being interwoven within it, as Drax was. Cory Environmental sought a section 35 direction for the Cory project and on 6 October 2022, the Secretary of State determined that the direction would be granted however noted in the decision that “*The Secretary of State does not consider that the carbon capture element of the proposed project constitutes an extension of the generating station*”.<sup>6</sup>
- 2.14 The Secretary of State reached the same conclusion on 20 February 2024 in respect of the section 35 direction for the Ferrybridge Carbon Capture and Storage Project, again citing in the direction that “*The Secretary of State does not consider that, in this case, the carbon capture element of the proposed project constitutes an extension of the generating station*”.<sup>7</sup>
- 2.15 It is therefore the view of the Acquiring Authority that the Proposed Development relates to the operation of a generating station – and not the extension of a generating station - for the following reasons:
- 2.15.1 The Proposed Development is not a generating station in its own right capable of creating energy for offtake to the national grid and therefore it cannot be said that the Proposed Development relates to the construction of a generating station.
- 2.15.2 Section 64 of the Electricity Act 1989 defines “*Extension*” as “*the use by the person operating the station of any land (wherever situated) for a*

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<sup>6</sup> [Direction by the Secretary of State under Section 35 of the Planning Act 2008, relating to the Cory Decarbonisation Project](#)

<sup>7</sup> [Ferrybridge Carbon capture and storage project: direction by the Secretary of State for Energy Security and Net Zero, Section 35, Planning Act 2008](#)

*purpose directly related to the generation of electricity by that station".* The Proposed Development is not increasing or contributing to the generation capacity of the existing generating station, so it cannot be said that the purpose of the Proposed Development directly relates to the generation of electricity. The Proposed Development is clearly being promoted for a purpose connected with the carrying on of the licenced activities, however it is not directly related to the generation of electricity and hence does not meet the definition of extension.

2.15.3 The Proposed Development and the existing generating station could be operated by different commercial entities, which would further indicate that it was not an extension of the existing facility.

2.15.4 It is the prevailing view of the Secretary of State in all of his recent decisions relating to carbon capture technology, that it does not constitute an extension to a generation station and the only reason that section 35 directions have been granted is because of the inclusion of additional infrastructure and demonstrating individual need on a case by case basis for a development consent order and the perceived benefit of time and certainty that would bring to the relevant projects.

2.16 It follows that the Acquiring Authority may lawfully seek planning permission for the Proposed Development and may be authorised to purchase compulsorily land or rights over land to enable the Acquiring Authority to carry on the activities authorised by its licence under the Electricity Act 1989.

### **3. DESCRIPTION OF THE PROPOSED DEVELOPMENT**

3.1 The Proposed Development comprises a post-combustion carbon capture plant adjacent to and serving the existing VPI Immingham CHP Plant. Carbon capture is a process that removes CO<sub>2</sub> emissions at source, for example emissions from an electricity generating station or industrial installation, and then compresses the CO<sub>2</sub> so that it can be safely transported to secure underground storage sites. It is then injected into an appropriate storage site, such as within the cavities of highly porous sedimentary rock, where the CO<sub>2</sub> becomes trapped and locked in place preventing release into the atmosphere. The technologies used as part of the carbon capture process have been safely used across the world for many years. Geologically suitable storage sites in the vicinity of the Proposed Development have been identified and transportation links between the Proposed Development and the geological storage site are currently progressing through the consenting process.

3.2 The Proposed Development comprises the carbon capture and compression for export elements of the carbon capture and storage process.

- 3.3 The Proposed Development forms part of Humber Zero, a project set up in January 2021 by the Acquiring Authority and Phillips 66 following a 2019 plan set out by UK Research and Innovation for decarbonising clusters of high concentrations of heavy industry.
- 3.4 Humber Zero will see the installation of two post-combustion carbon capture plants –
- 3.4.1 The Proposed Development owned by the Acquiring Authority, which will be able to capture 3.3 million tonnes of carbon per annum and has been nominated by Harbour Energy as being its main “anchor emitter” project for the Viking CCS Cluster; and
- 3.4.2 The Humber Refinery carbon capture project owned by Phillips 66, which will be able to capture 0.5 million tonnes of carbon per annum.
- 3.5 The Proposed Development therefore underpins the viability of the Humber Zero project, the Viking CCS Cluster and the wider UK cluster decarbonisation ambitions. The Proposed Development will remove more than 95% of CO<sub>2</sub> emissions from VPI Immingham CHP Plant, the largest plant of its kind in Europe and as part of the Humber Zero project will remove 19% of CO<sub>2</sub> emissions from the Humber industrial cluster, the largest cluster of its kind in the UK comprising a mix of heavy industry, energy users, transport and port facilities.
- 3.6 Once captured, the CO<sub>2</sub> emissions will be transported offshore and stored as described above, by being injected into highly porous sedimentary rock located in geologically secure sites contained within depleted gas fields in the southern North Sea. The CO<sub>2</sub> transportation network that the Proposed Development will connect into is the Viking Carbon Capture Storage (CCS) CO<sub>2</sub> Transportation and Storage Network, which is currently being promoted through the DCO process by Harbour Energy.
- 3.7 The Proposed Development will be designed to operate 24 hours a day, 7 days a week alongside the existing VPI Immingham CHP Plant. The Proposed Development will operate under environmental permits granted by the Environment Agency which will stipulate the required environmental monitoring and controls to be employed, including emissions monitoring systems.
- 3.8 The Proposed Development will require water, power and steam when under operation. It is anticipated that these utilities will be sourced from within the Order Land. The Proposed Development will also require chemicals such as caustic and solvents which treat the flue gases to remove the carbon dioxide.
- 3.9 The Proposed Development will generate solid and liquid wastes, which will be treated on site as required and/or discharged or disposed off-site by a licensed waste carrier. Surface water runoff will be managed in accordance



with an approved drainage strategy. Scheduled maintenance will take place at regular intervals during the operational life of the Proposed Development.

- 3.10 The Proposed Development will be required to operate for at least 15 years under the relevant UK government support package and will have a design life of at least 25 years but the operational life could be longer subject to market conditions which will be appraised as the project operates.
- 3.11 The Acquiring Authority has selected an EPC contractor and is working through its execution readiness phase in preparation for final investment decision, with an expectation that construction contracts will be in place by the end of 2025.

#### 4. DESCRIPTION OF THE ORDER LAND

- 4.1 This section contains a brief description of the Order Land. A more detailed description of each plot is set out in Table 1 and Table 2 of the Order.
- 4.2 The Order Land comprises of two distinct parcels of land:
  - 4.2.1 The land shown edged red and coloured pink on the Map referred to in the Order (**“the P66 Land”**); and
  - 4.2.2 The land shown edged red and coloured blue on the Map referred to in the Order (**“the VPI Land”**).
- 4.3 The Acquiring Authority proposes to permanently acquire the land comprising the P66 Land in order to facilitate the construction of the Proposed Development. The P66 Land is currently formed of vacant agricultural land and parking land, the freehold of which is owned by Phillips 66. Other interested parties in the P66 Land include Harbour Energy – which has an option over part of the land for the purposes of the construction of the transportation pipeline referred to above, and the North East Lindsay Drainage Board – which has drainage apparatus located in the land. The parking land – which is the area to the east of the VPI Immingham CHP Plant – is currently in the ownership of Phillips 66 but is leased to VPI Immingham B Limited. for the purposes of the construction of the Open Cycle Gas Turbine to the north of the CHP Plant. The Acquiring Authority requires this land to support parking and facilities during the construction and ongoing operation of the Proposed Development.
- 4.4 The Acquiring Authority proposes to permanently acquire rights in the land comprising the VPI Land in order to facilitate the connection of the Proposed Development to the existing operational VPI Immingham CHP Plant as well as ancillary rights including access and services.
- 4.5 The Proposed Development will be located on the P66 Land. The southernmost part of the P66 Land is only required temporarily for the construction compound and the Acquiring Authority is engaged in

discussions with Harbour Energy to ensure that their right to acquire this part of the P66 Land is not extinguished to enable the delivery of the transportation pipeline and CO2 gathering facilities. Once constructed, the Proposed Development would connect to the VPI Immingham CHP Plant and the transportation pipeline. The Acquiring Authority is working closely with Harbour Energy to manage the various construction interfaces between the Proposed Development and the transportation pipeline and an agreement to manage these interfaces is well advanced.

- 4.6 Other than for use by the Proposed Development and the Harbour Energy CCS infrastructure, the Order Land has limited ability to be used for other purposes. It is landlocked by the existing VPI CHP facility on one side and by major transportation corridors on the other sides. Other than limited information regarding a pipeline corridor, the Acquiring Authority is not aware of any proposals by Phillips 66 for the future use of the Order Land and as a critical part of the Humber Zero cluster, the Acquiring Authority would have been aware of such proposals had they been advanced.

#### 4.7 SPECIAL KINDS OF LAND

##### **Local authority and statutory undertaker land**

- 4.7.1 Sections 16 and 17 of and Schedule 3 to the Acquisition of Land Act 1981 apply to the compulsory acquisition of land and rights over certain specified types of land.
- 4.7.2 The Acquiring Authority understands that the Order Land includes rights which benefit a statutory undertaker, National Grid Electricity Transmission Plc ("**National Grid**"), for the purposes of its statutory undertaking.
- 4.7.3 The Acquiring Authority notes that had National Grid submitted a representation objecting to the Order, the Order could not have been confirmed by the Secretary of State for Energy Security and Net Zero unless the appropriate Minister was satisfied that the new rights can be acquired without serious detriment to the carrying on of National Grid's undertaking and certifies accordingly. National Grid has not submitted such a representation.
- 4.7.4 The Acquiring Authority is not proposing to interfere with or acquire any rights from National Grid and no land which is owned or leased by National Grid has been included within the Order Land.

##### **Open space land**

- 4.7.5 The Order Land does not include any land that is common land, laid out as a public garden, or used for the purpose of public recreation, or land being a disused burial ground.

## Crown land

4.7.6 The Order Land does not include any land that is Crown Land.

## Protected Assets

4.7.7 There are no listed buildings, buildings subject to a building preservation notice, buildings which may qualify for inclusion in the statutory list, registered parks or gardens, buildings within a conservation area or scheduled monuments within the Order Land.

## 5. DESCRIPTION OF THE NEW RIGHTS TO BE COMPULSORILY ACQUIRED

5.1 New rights are sought in the Order to facilitate the Acquiring Authority and all persons authorised on its behalf to access the VPI Land for the purposes of carrying out the Proposed Development (**"the Access Rights"**).

5.2 In addition to the Access Rights, new rights are sought in the Order to facilitate the installation, use, maintenance, alteration and replacement of the Proposed Development or any part of it and to connect to other services in support of the Proposed Development (**"the Connection Rights"**).

5.3 The Access Rights and the Connection Rights are defined in the Order as:

<b>"Access Rights"</b>	means the right to pass and re-pass with or without vehicles, plant and machinery over any road, way or path.
<b>"Connection Rights"</b>	means the right to install, retain, use, maintain, alter, replace and remove carbon capture, compression and transport equipment, plant and machinery ("Carbon Capture Plant"); to install, retain, use, maintain, alter, replace and remove pipelines, cables utilities and other services and connections ("the Connection"); to pass any gas, water, steam, electricity, data, surface and storm water, sewage, telecommunications and other services through the Connections; of support for the Carbon Capture Plant and the Connections; to prevent any works on or uses of the land which may interfere with or damage the Carbon Capture Plant or the Connections; and to access buildings, plant and controls for the purposes relating to the Carbon Capture Plant and the Connections.

## 6. NEED FOR THE SCHEME AND JUSTIFICATION FOR THE USE OF POWERS OF COMPULSORY ACQUISITION

### Policy Support

6.1 The UK Government is legally committed to ensure that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline.<sup>8</sup> This is the legal commitment underpinning the Government's "net zero by 2050" strategy. The new Government is also committed to establishing a

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<sup>8</sup> Climate Change Act 2008, s1(1)

clean energy system by 2030,<sup>9</sup> which will involve both the development of new renewable energy sources and the upgrading of the national transmission system, but also the decarbonisation of carbon-generating power production and heavy industry. Carbon capture and storage (“**CCS**”) is an integral part of that – both the carbon capture element and the related transport and storage element, the need for which is now urgent given that the UK CCS market is still in its infancy.

- 6.2 To support the urgent need for new CCS infrastructure, CCS technologies, pipelines and storage infrastructure are considered in policy terms to be of critical national priority.<sup>10</sup> This includes the Proposed Development, as a project incorporating CCS technologies. In fact, the Proposed Development has specifically been identified by DESNZ as a core contributor to the initial target of having 2.7GW of abated power on the system by 2030.
- 6.3 The UK is uniquely placed, with one of the most significant CCS potentials of any country in the world – the UK continental shelf, which has a particularly suitable geological porosity for CO<sub>2</sub> storage estimated at 78 billion tonnes, providing substantial opportunities for growth and the decarbonisation of key industries (including power) through the deployment of carbon capture technology where access to storage pipelines can be secured.<sup>11</sup>
- 6.4 UK energy and climate change policy demonstrates that CCS must play a key role in delivering a clean energy system by 2030 and net zero by 2050:
  - 6.4.1 The Climate Change Committee has said that CCS is “a necessity, not an option” for the transition to net zero.<sup>12</sup> In every scenario modelled by the Climate Change Committee and the Intergovernmental Panel on Climate Change for the achievement of the 2050 net zero target, CCS technology is identified as vital for curbing emissions across the power and energy-intensive industries, as well as decarbonising the economy through low-carbon hydrogen.
  - 6.4.2 The Government and the Climate Change Committee have confirmed that new gas-fired generating capacity with CCS will be required to provide vital backup for less flexible renewable generation to ensure the security of UK electricity supplies and that the system can meet peak electricity demand. This is in addition to converting existing gas-fired power stations with CCS technology.<sup>13</sup>
  - 6.4.3 Given the changing nature of the energy landscape, we need a diverse mix of electricity infrastructure to come forward, so that we can deliver a secure, reliable, affordable and net zero consistent system during the

<sup>9</sup> [Make Britain a clean energy superpower – The Labour Party](#)

<sup>10</sup> [EN-1 Overarching National Policy Statement for Energy \(publishing.service.gov.uk\)](#), paragraph 3.5.1-8

<sup>11</sup> [Powering Up Britain - Joint Overview \(publishing.service.gov.uk\)](#), page 11

<sup>12</sup> The Climate Change Committee (2019), ‘Net Zero: the UK’s contribution to stopping global warming’, <https://www.theccc.org.uk/publication/net-zero-the-uks-contribution-to-stopping-global-warming/>

<sup>13</sup> *ibid*

transition to 2050 for a wide range of demand, decarbonisation and technology scenarios.<sup>14</sup>

- 6.4.4 The Government has recently provided £22 billion of funding for early deployment of CCS to unlock private investment and jobs as part of the recently announced “Track 1” supported projects. Government is continuing to make supportive announcements on CCS, following this £22 billion funding, including announcing Track 2 support for two additional clusters in the North East (Viking) and North West (Acorn) to be developed by 2030.<sup>15</sup>
- 6.4.5 Both the UK’s Net Zero Strategy<sup>16</sup> and Industrial Decarbonisation Strategy<sup>17</sup> reaffirm the importance of CCS in decarbonising energy intensive sectors such as chemicals, oil refining, and cement.
- 6.4.6 The International Energy Agency further reinforces the need for CCS in the clean energy transition.<sup>18</sup>
- 6.4.7 The British Energy Security Strategy<sup>19</sup> emphasises the importance of addressing our underlying vulnerability to international energy prices by reducing our dependence on imported oil and gas, improving energy efficiency, remaining open minded about our onshore reserved including shale gas, and accelerating deployment of renewables, nuclear, hydrogen, CCS, and related network infrastructure, so as to ensure a domestic supply of clean, affordable, and secure power as we transition to net zero.<sup>20</sup>
- 6.4.8 Due to the anticipated increases in electricity demand, a four-fold increase in clean electricity generation is required alongside the full decarbonisation of existing electricity generation infrastructure. Whilst a low-cost, net zero consistent system is likely to be composed predominantly of wind and solar, in order to ensure the system is reliable, it needs to be complemented by technologies which provide power, or reduce demand, when the wind is not blowing, or the sun does not shine. This includes gas with CCS and short-term dispatchable generation providing peaking capacity.<sup>21</sup>
- 6.5 As such, it is clear that the deployment of CCS technology is seen as fundamental to the decarbonisation of the UK’s existing power sector to secure the long-term future of this key industry within the wider economy.
- 6.6 The need to decarbonise the power sector becomes all the more acute when considering that UK electricity demand is now expected to grow 2-

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<sup>14</sup> EN-1 Overarching National Policy Statement for Energy (publishing.service.gov.uk), paragraph 3.3.19

<sup>15</sup> Powering Up Britain - Joint Overview (publishing.service.gov.uk)

<sup>16</sup> Net Zero Strategy: Build Back Greener - GOV.UK (www.gov.uk)

<sup>17</sup> Industrial decarbonisation strategy - GOV.UK (www.gov.uk)

<sup>18</sup> A new era for CCUS – CCUS in Clean Energy Transitions – Analysis - IEA

<sup>19</sup> British energy security strategy - GOV.UK (www.gov.uk)

<sup>20</sup> EN-1 Overarching National Policy Statement for Energy (publishing.service.gov.uk), paragraph 2.5.6

<sup>21</sup> Energy White Paper (publishing.service.gov.uk) page 43

3GW per annum, leading the Climate Change Committee to conclude that it will be necessary to capture and store as much as 176 million tonnes of carbon per annum by 2050. To demonstrate the scale of that challenge, Humber Zero proposes to capture 3.8 million tonnes of carbon per annum. Globally, the International Energy Authority estimates that 1 billion tonnes of storage capacity is required by 2030 for a net zero pathway consistent with 1.5 degrees to be achieved globally.<sup>22</sup>

- 6.7 The Proposed Development is an integral part of the UK's contribution to decarbonisation, given its location in a key CCS cluster, access to a transporter pipeline and proximity to a carbon-intensive power generator and carbon-intensive customers of this generator. In fact, the Proposed Development represents nearly 20% of the UK government's 2030 carbon capture target.
- 6.8 The net zero pathway in the UK also depends on decarbonisation beyond the power sector. CCS is a technology that can support decarbonisation across multiple sectors, all of which are significant contributors to the UK's total carbon emissions:
  - 6.8.1 Power – Providing low carbon generation capacity, that supports and complements an increasing proportion of renewables in the national generation mix: without CCS the amount of renewable power that can be accommodated in any grid is materially constrained.
  - 6.8.2 Industry – Provides infrastructure to capture emissions at source, and this support their long-term competitiveness. For industrial emitters, there are few credible decarbonisation options – beyond carbon capture or fuel switching to clean hydrogen – that will enable energy-intensive industries such as steel, cement, glass, and fertiliser production to continue to operate in a net zero economy.
  - 6.8.3 Transport – By supporting the further decarbonisation of the grid that powers electric vehicles and electrified rail, plus enabling the production of blue hydrogen that may support decarbonised freight and shipping, CCS supports the decarbonisation of both light and heavy transport.
- 6.9 The deployment of CCS technologies at commercial scale is a priority for UK energy and climate change policy and critical to efforts to tackle climate change over the coming decades. The Proposed Development represents one of the first major steps towards deploying commercial scale CCS in the UK and directly achieves the Government's aspiration to decarbonise power sources which are not renewable and thus balance the grid during renewable "down times". It is also the only CCS project that can viably connect to the Viking CCS transportation and storage network prior to the early 2030s.

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<sup>22</sup> International Energy Agency (2023), 'Net Zero Roadmap: A Global Pathway to Keep the 1.5 °C Goal in Reach', Net Zero Roadmap: A Global Pathway to Keep the 1.5 °C Goal in Reach - 2023 Update (iea.blob.core.windows.net) p132

## Public Benefits

- 6.10 The Humber is the largest industrial cluster in the UK in terms of existing carbon dioxide emissions, emitting approximately 20 million tonnes of CO<sub>2</sub> per annum. The Humber region produces construction materials, chemicals, food and fuel, generates 20% of the UK's electricity and produces a third of the UK's fuel. The Proposed Development will provide over 900MW of decarbonised power and steam and supports the capture of 95% of CO<sub>2</sub> emissions (up to 3.3 million tonnes of CO<sub>2</sub> per annum) from a large electricity generator in the Humber cluster, VPI Immingham CHP Plant's two gas turbines and two aux boilers. It is also the anchor/enabling project for the Viking CCS Cluster, the only cluster that can meaningfully decarbonise the Humber region, the UK's largest emitting region.
- 6.11 In addition to contributing to decarbonising the national grid, the deployment of the Proposed Development would result in the decarbonisation of heat and power that is supplied directly to Phillips 66's neighbouring Humber Refinery and the adjacent Lindsey Oil Refinery. This benefit is achieved with the Proposed Development regardless of whether Phillips 66's Humber Refinery FCC carbon capture project comes forward. Nothing in the Order prejudices or negatively impacts Phillips 66's carbon capture project and in fact the Order ensures meaningful decarbonisation of the Humber Refinery.
- 6.12 The Humber industrial cluster is also a major source of employment for the region and 20% of the regional economy derives from energy intensive industry, which also accounts for 1 in 10 jobs in the region. The Proposed Development will create over 1200 construction jobs during the development, between 50-100 permanent jobs during the operational phase and safeguard around 20,000 direct and indirect jobs within the Humber region, ensuring carbon emitting energy intensive industries can continue to operate consistent with net zero targets. The Proposed Development has the potential to demonstrate the operation of these critical technologies at scale to the wider heavy industrials sector, which employs over 220,000 people nationally, the safeguarding of which is critical to economic growth and in the wider national interest.
- 6.13 The Proposed Development will also support the wider deployment of the emerging CCS sector within the UK, which is critical to delivering net zero, economic growth, the safeguarding of jobs in key industries and the creation of a new skills market to export to other countries. The UK is in a strong position to become a global technology leader in CCS due to the unique geology and available storage zones in depleted oil wells within the UK continental shelf. It recognises that deployment of CCS could create new markets for UK businesses, at home and abroad, as other countries look to meet their emissions reduction commitments and could support 50,000 jobs in the UK by 2030.

## Alternatives

- 6.14 The Acquiring Authority has carried out a detailed site selection process as part of initial project feasibility, which was undertaken with the aim of meeting the identified national need for industrial decarbonisation, whilst avoiding and/or reducing adverse environmental effects and maintaining operational efficiency, cost effectiveness and land availability. The nature of the technology comprising the Proposed Development requires both an adjacent carbon emitter and a CO<sub>2</sub> transportation pipeline in very close proximity. Without both of these aspects, a site would be unable to support the Proposed Development and so was discounted from site selection. Taking this critical constraint into account, the following alternative sites were considered and discounted:
- 6.14.1 Land to the north of the VPI Immingham CHP Plant – This land is not available as it is already committed and under development pursuant to the VPI Immingham OCGT development consent order, by the Acquiring Authority.
  - 6.14.2 Land to the west of the VPI Immingham CHP Plant – This land comprises of existing refineries including the Humber Refinery. There is a small triangular shaped parcel of land immediately west of the CHP Plant which is bound by the railway line and the CHP Plant, however this parcel is too small to support the Proposed Development and access to the CO<sub>2</sub> transportation pipeline would be technically very challenging.
  - 6.14.3 Land to the east of the VPI Immingham CHP Plant (South of Marsh Lane) – This land is separated from the VPI Immingham CHP Plant by Rosper Road, which is a heavily congested road for logistics and industrial traffic. It would be technically very challenging to tie the Proposed Development to the flue stack by way of a pipe bridge over the highway or under it and it would still be necessary to take part of the Order Land to locate flue gas ducting and blowers in any event. Further, the Acquiring Authority was notified by Phillips 66 (also the landowner of this parcel) that this land was required for the construction of a green hydrogen gigastack. Since that time the gigastack project has been suspended, however Phillips 66 have insisted that this land is earmarked for other projects.
  - 6.14.4 Land to the east of the VPI Immingham CHP Plant (North of Marsh Lane) – This land has the same technical constraints as the land South of Marsh Lane and is within the order limits of the Able Marine Energy Park DCO and is therefore not capable of supporting the Proposed Development.
  - 6.14.5 There are no other viable parcels of land in proximity to the VPI Immingham CHP Plant and the CO<sub>2</sub> transportation pipeline. There are also no commercially viable alternative technologies to reduce VPI Immingham CPH Plant's CO<sub>2</sub> emissions and thus enable the policy objective of decarbonisation without the need for the Order Land.



6.14.6 The alternative scenario of not deploying CCS to the VPI Immingham CHP Plant (i.e. the “do nothing scenario”) is not considered to be an option, given the site’s significance as an energy generator / supplier and the need to deploy CCS technologies at scale to support the Government’s decarbonisation agenda. The do nothing scenario is not consistent with the UK Government’s committed objective to decarbonising industrial clusters or its expressed target of fully decarbonising the national grid by 2035 and would result in the failure to deliver a critical technology on one of the most viable sites in the market, with access to both a key carbon emitting energy supplier and a transporter pipeline.

6.15 For the reasons set out in paragraph 611 of this Statement of Case, the Acquiring Authority has concluded that the significant public benefits of the Proposed Development outweigh the effects upon persons with an interest in the Order Land.

## **7. NEGOTIATIONS WITH LANDOWNERS**

7.1 The Acquiring Authority has sought, and continues to seek, acquisition of the rights over the Order Land, by negotiation and agreement wherever possible, and the making of the Order does not prejudice the rights of the interested parties to settle such negotiations by agreement.

7.2 The Acquiring Authority has been in land negotiations with Phillips 66 since before 1 October 2021. The commercial position between the parties is complex but the key position can be summarised as follows.

7.3 The Acquiring Authority wishes to voluntarily acquire a leasehold interest in the P66 Land and have been attempting to progress negotiations for this land interest to facilitate the Proposed Development for over 4 years.

7.4 Phillips 66 has insisted that any leasehold interest be conditional on an amendment to an existing commercial agreement between the Acquiring Authority and Phillips 66, which relates to the ongoing supply of energy products by the Acquiring Authority to Phillips 66. This agreement is known as the Energy Services Agreement (“**ESA**”). Other than Phillips 66’s insistence on the conditionality of the leasehold interest to the ESA amendment, the ESA is completely unrelated to the Proposed Development or the wider decarbonisation agenda that the Proposed Development sits within.

7.5 Phillips 66 are seeking a major amendment to the ESA which will mean the Acquiring Authority may be contractually bound to provide energy products to Phillips 66 on uneconomic terms. The amendment to the ESA is not agreed by the Acquiring Authority, who are continuing to negotiate in good faith and to achieve a fair outcome on the ESA. It is a distinct possibility that no final agreement on the ESA amendment will be reached and it is the Acquiring Authority’s view that, as this does not relate to the Proposed

Development, it should not prevent the grant of planning permission or the confirmation of the Order.

7.6 The ESA is commercially confidential and sensitive but any amendment to its terms has a significant impact on the Acquiring Authority's business, which demonstrates why the parties are at an impasse. The Acquiring Authority's position remains that the ESA amendment is totally unrelated to the Proposed Development and even if the ESA amendment was agreeable (which it is currently not), resolution of the ESA would require more time than can be accommodated by the Proposed Development's current final investment decision timetable as driven by the joint Viking CCS Cluster schedule prepared by Harbour Energy.

7.7 A summary of correspondence is set out in the table below:

Date	Correspondence
August 2020	Humber Zero cooperation between Phillips 66 and VPI created.
10 August 2021	Humber Zero Joint Project Management Team meeting to discuss the finalization of Heads of Terms ("HoTs") for land agreements tabled by Acquiring Authority.
7 September 2021	Humber Zero Joint Project Management Team meeting to discuss the finalization of HoTs for land agreements tabled by Acquiring Authority.
5 October 2021	Humber Zero Joint Project Management Team meeting to discuss the finalization of HoTs for land agreements tabled by Acquiring Authority.
9 November 2021	Humber Zero Joint Project Management Team meeting to discuss the finalization of HoTs for land agreements tabled by Acquiring Authority.
7 December 2021	Humber Zero Joint Project Management Team meeting to discuss the finalization of HoTs for land agreements tabled by Acquiring Authority.
7 December 2021	Email from Phillips 66 returning draft HoTs with some final amendments.
12 December 2021	Email from Pinsent Masons <sup>23</sup> to Phillips 66 circulating draft Option Agreement.
15 December 2021	Email from Acquiring Authority to Phillips 66 suggesting a call to discuss any issues with the Option Agreement.
17 December 2021	Email from Phillips 66 to Acquiring Authority confirming that they have not looked at the Option Agreement yet and are focusing on preparing the draft Lease.
22 December 2021	Email from Pinsent Masons enquiring when we should expect to receive the draft Lease.

<sup>23</sup> Pinsent Masons act for the Acquiring Authority in relation to the negotiations with Phillips 66 for the required land interests.

Date	Correspondence
10 January 2022	Email from Phillips 66 confirming that an agreed version of the drafting of the Option Agreement is not feasible by 21 January 2022. Acquiring Authority respond to Phillips 66 and emphasise that the signing of the agreed HoTs by 21 January 2022 is important.
11 January 2022	Humber Zero Joint Project Management Team meeting to discuss the finalization of HoTs for land agreements tabled by Acquiring Authority.
13 January 2022	Email from Acquiring Authority to Phillips 66 chasing the execution of HoTs.
17 January 2022	Email from Phillips 66 to Acquiring Authority confirming that Phillips 66 is still working on the execution of the HoTs and the intention is to have it by mid-week.
18 January 2022	Email from Phillips 66 to Acquiring Authority clarifying the alienation provisions.
19 January 2022	Emails between Acquiring Authority and Phillips 66 in relation to the alienation provisions and Acquiring Authority suggesting a call with Phillips 66.
24 January 2022	Call between Acquiring Authority and Phillips 66 and follow up emails on the alienation provisions.
1 February 2022	Humber Zero Joint Project Management Team meeting to discuss the finalization of HoTs for land agreements tabled by Acquiring Authority.
17 February 2022	HoTs between Phillips 66 and the Acquiring Authority for the lease of the Order Land fully executed.
22 February 2022	Email from Pinsent Masons to Phillips 66 asking when they should expect to receive the draft Lease and comments on the Option Agreement that was circulated on 12 December 2021.
25 February 2022	Email from Phillips 66 to Pinsent Masons confirming that they are still working on the documents and hope to be able to return them the following week.
1 March 2022	Humber Zero Joint Project Management Team meeting to discuss the Lease of the Order Land.
9 March 2022	Email from Acquiring Authority to Phillips 66 querying when the comments on the Option Agreement will be returned and highlighting the need to finalise matters.
15 March 2022	Email from Phillips 66 returning comments on the draft Option Agreement and providing a first draft of the Lease.
5 April 2022	Humber Zero Joint Project Management Team meeting. The Lease and Option Agreement tabled by Acquiring Authority as critical path items.
12 April 2022	Email from Pinsent Masons to Phillips 66 returning a revised draft Option Agreement.

Date	Correspondence
13 May 2022	Email from Pinsent Masons to Phillips 66 returning a revised Lease with comments and inviting responses on both the revised Lease and Option Agreement (which was circulated on 12 April 2022).
8 June 2022	Humber Zero Joint Project Management Team meeting. The Lease and Option Agreement tabled by Acquiring Authority as critical path items.
5 July 2022	Humber Zero Joint Project Management Team meeting. The Lease and Option Agreement tabled by Acquiring Authority as critical path items.
May - September 2022	Option Agreement and Lease drafts are exchanged between Phillips 66 and Pinsent Masons. Phillips 66 returns Option Agreement with comments and proposals that are considered to be further from the agreed HoTs.
1 September 2022	Humber Zero Joint Project Management Team meeting. The Lease and Option Agreement tabled by Acquiring Authority as critical path items.
14 September 2022	Email from Acquiring Authority to Phillips 66 returning marked-up Lease for Phillips 66 to review. Pinsent Masons asking Phillips 66 whether the Option Agreement is now in agreed form and whether the temporary access licence currently in place can be extended. No response was received from Phillips 66.
3 October 2022	Second email from Pinsent Masons chasing Phillips 66 on responses to draft Lease and queries from 14 September 2022.
4 October 2022	Humber Zero Joint Project Management Team meeting. The Lease and Option Agreement tabled by Acquiring Authority as critical path items.
11 October 2022	Email from Acquiring Authority to Phillips 66 asking for explanation on outstanding issues and lack of progress on land documents
October 2022	Emails from Phillips 66 to Pinsent Masons / Acquiring Authority confirming that Phillips 66 will not review the Option Agreement and Lease until a decision has been reached regarding plot layout and the position of the Killingholme ditch. Phillips 66 confirm that the Option Agreement is not in agreed form and that further amendment will be required.
7 November 2022	Meeting held between the Acquiring Authority and North East Lindsey Drainage Board to discuss the diversion of the drain over the Phillips 66 Land. Various drain routing options were presented and the rationale for the selected option was explained. Guy Hird from the Drainage Board noted that there was a clear rationale for the drain diversion and design work would be progressed between the parties.
December – July 2023	Exchanges between Acquiring Authority and Phillips 66 confirming various outstanding points e.g. regarding ditch locations, construction schedule. January 2023 parties attend a land workshop.
6 December 2022	Humber Zero Joint Project Management Team meeting. The Lease and Option Agreement tabled by Acquiring Authority as critical path items.
9 March 2023	Humber Zero Joint Project Management Team meeting. The Lease and Option Agreement tabled by Acquiring Authority as critical path items.

Date	Correspondence
9 March 2023	Email from Acquiring Authority to Phillips 66 requesting a meeting to finalise land documents
2 May 2023	Humber Zero Joint Project Management Team meeting. The Lease and Option Agreement tabled by Acquiring Authority as critical path items
12 May 2023	Email from Acquiring Authority to Phillips 66 requesting advancement of lease agreement and temporary access issues.
6 June 2023	Humber Zero Joint Project Management Team meeting. The Lease and Option Agreement tabled by Acquiring Authority as critical path items.
4 July 2023	Email from Pinsent Masons to Phillips 66 detailing the remaining outstanding points on the Lease and proposed way forward.
4 July 2023	Humber Zero Joint Project Management Team meeting. The Lease and Option Agreement tabled by Acquiring Authority as critical path items.
17 July 2023	Email from Phillips 66 stating that they hope to revert shortly.
17 August 2023	Email from Phillips 66 with further comments on the Lease. Various points remain outstanding.
6 September 2023	Humber Zero Joint Project Management Team meeting. The Lease and Option Agreement tabled by Acquiring Authority as critical path items.
August - October 2023	Further revised drafts of the Lease are circulated. No resolution is reached.
27 October 2023	Email from Acquiring Authority to Phillips 66 regarding extent of assignment protections requested by Phillips 66
7 November 2023	Humber Zero Joint Project Management Team meeting. The Lease and Option Agreement tabled by Acquiring Authority as critical path items.
13 November 2023	Email from Phillips 66 in relation to financial security. Phillips 66 confirm they will revert on the other points
24 November 2023	Email from Acquiring Authority to Phillips 66 requesting full comments on the suite of land / lease documents.
27 November 2023	Phillips 66 email to confirm that they have another internal review scheduled for that week and will provide an update following this.
30 November 2023	Phillips 66 email stating that they hope to revert on the Lease shortly.
6 December 2023	Acquiring Authority email request comments at Phillips 66's earliest opportunity.
12 January 2024	Acquiring Authority email to Phillips 66 in relation to the s.106 Agreement and lack of finalisation of Option Agreement. Acquiring Authority express concern over the fact the Option Agreement remains unexecuted and

Date	Correspondence
	request a discussion with Phillips 66 to bring the Option Agreement and associated draft agreements to a conclusion.
12 January 2024	Email from Acquiring Authority to Phillips 66 requesting immediate resolution of land Option Agreement as this has become an impediment to planning approvals
17 January 2024	Phillips 66 revert on financial security matters. Acquiring Authority requests a call with Phillips 66 within the next two days to bring this issue to a conclusion.
18 January 2024	Phillips 66 confirm that their position and agree to check internally and revert. They do not comment on convening a call. Acquiring Authority revert and explain position on the financial security.
18 January 2024	Emails between Acquiring Authority and Phillips 66 regarding level of guarantees required under the Lease Agreement
25 January 2024	Teams call between Acquiring Authority and Phillips 66 to discuss utility requirements under ESA as a condition to land lease agreement
7 February 2024	Acquiring Authority circulate updated draft of option to lease and request a meeting that week or the next to bring the issues to a conclusion.
8 February 2024	Teams call between Acquiring Authority and Phillips 66 to discuss utility requirements under ESA as a condition to land lease agreement
8 February 2024	Phillips 66 revert and confirm position in relation to financial security. Acquiring Authority request a meeting on 14 February 2024 to discuss. Phillips 66 respond and confirm they are not available on this date; they do not propose an alternative. Acquiring Authority requests that Phillips 66 propose a suitable date for a meeting.
9 February 2024	Phillips 66 propose meeting times, meeting is agreed for 15 February.
12 February 2024	Call between Acquiring Authority and Phillips 66 – summary of items to discuss on call on 15 February.
12 February 2024	Email and telephone call from Acquiring Authority to Phillips 66 discussing the challenges of the requests made by Phillips 66 regarding lease guarantees and the need to resolve land matters to comfort key stakeholders (e.g, lenders, VPI management etc).
14 February 2024	Email from Acquiring Authority to Phillips 66 indicating the need to resolve land agreements and sign option agreement
15 February 2024	Meeting between Acquiring Authority and Phillips 66.
19 February 2024	Acquiring Authority circulate revised wording on financial security following the meeting on 15 February.

Date	Correspondence
21 February 2024	Emails between Acquiring Authority and Phillips 66 regarding insurance requirements in respect of the leased lands (Phillips 66 seeking significantly higher protections as compared to all existing leases)
22 February 2024	Emails between Acquiring Authority and Phillips 66 regarding insurance requirements in respect of the leased lands (Phillips 66 seeking significantly higher protections as compared to all existing leases)
28 February 2024	Email from Acquiring Authority to Phillips 66 asking for complete list of ESA conditions required in order for Phillips 66 to agree land documents
28 February 2024	Email from Acquiring Authority to Phillips 66 requesting consideration of market standard insurance protections re liability caps
1 March 2024	Email from Acquiring Authority to Phillips 66 enquiring about insurance requirements under land agreements
5 March 2024	Email from Acquiring Authority to Phillips 66 explaining the limits of the DPA to accommodate cost recovery of Phillips 66 products (a condition Phillips 66 requested as part of the lease agreement)
7 March 2024	Email from Acquiring Authority to Phillips 66 requesting clarity on ESA amendments required before Phillips 66 would accept the lease agreement
7 March 2024	Email from Phillips 66 rejecting a meeting to discuss connections between ESA and land lease agreement finalization
11 March 2024	Email from Phillips 66 rejecting Acquiring Authority's offer on ESA amendments to facilitate land lease agreement finalization
11 March 2024	Email from Phillips 66 provisionally rejecting Acquiring Authority's proposed land insurance proposal
12 March 2024	Email from Acquiring Authority to Phillips 66 requesting a call with Phillips 66's insurance team to understand land insurance issues
12 March 2024	Email from Phillips 66 to Acquiring Authority indicating insurance team are on holiday and unable to discuss
14 March 2024	Email from Acquiring Authority to Phillips 66 proposing a process to agree ESA amendments and thus facilitate land lease agreement finalization
14 March 2024	Emails between Phillips 66 and Acquiring Authority indicating that Phillips 66 rejects Acquiring Authority's land insurance proposal outright and a request by Acquiring Authority to explain this position
19 March 2024	Email from Phillips 66 indicating that it rejects the Acquiring Authority's proposal for ESA amendment agreement and land lease finalization and requesting cancellation of meeting to discuss
March-July 2024	Management calls every other Tuesday between Acquiring Authority and Phillips 66 to discuss advancing land issues
9 April 2024	Humber Zero Joint Project Management Team meeting where outstanding land issues noted.

Date	Correspondence
9 April 2024	Email from Acquiring Authority to Phillips 66 asking for regular weekly calls to resolve land access agreements
21 May 2024	Email from Pinsent Masons to North Lincolnshire Council discussing section 106 agreement, requesting Phillips 66's changes to the terms of the s106 agreement including requesting (1) a release of liability clause to benefit Phillips 66 on the Acquiring Authority taking a lease; and (2) a BNG contribution in lieu of an obligation to submit a BNG plan.
5 June 2024	Email from North Lincolnshire Council rejecting the release of liability clause to benefit Phillips 66 on the Acquiring Authority taking a lease.
12 June 2024	Email from North Lincolnshire Council rejecting the inclusion of a BNG contribution in lieu of an obligation to submit a BNG plan.
13 June 2024	E-mail from Pinsent Masons to North Lincolnshire Council with revised draft section 106 agreement.
17 June 2024	E-mail from North Lincolnshire Council confirming agreement of the section 106 agreement as drafted by Pinsent Masons.
3 July 2024	E-mail from Pinsent Masons to North Lincolnshire Council confirming that the section 106 agreement is with Phillips 66 for approval.
26 July 2024	Telephone call between Acquiring Authority and Phillips 66 notifying Acquiring Authority's intention to make a CPO to acquire Phillips 66's land interest for the Proposed Development to preserve Humber Zero viability. Offer to continue commercial negotiations.
15 October 2024	E-mail from Phillips 66 to Pinsent Masons agreeing to the release clause drafting.
28 October 2024	Meeting between VPI and Phillips 66 (in person) at VPI Immingham to discuss potential ESA amendments (emails discussing possible terms sent on 22 October 2024 and 21 October 2024)
1 November 2024	Email from VPI to Phillips 66 regarding VPI accepting more ROG under ESA
15 November 2024	Email from VPI informing of upcoming pricing formulae for ESA negotiations
27 November 2024	E-mail from Phillips 66 to VPI stipulating that no land agreement without amendment to the Energy Services Agreement
13 December 2024	E-mail from Pinsent Masons to Phillips 66 with further copy of the section 106 agreement including a contribution towards BNG provision payable on commencement of development.
13 December 2024	E-mail from VPI to Phillips 66 with proposed ESA pricing structure for ESA negotiations and response email from Phillips 66 asking for more specific terms
19 December 2024	Email from VPI to Phillips 66 requesting clarity on quantum of product, term and nature of abatement levels required by Phillips 66 for ESA negotiations. Partial Phillips 66 response on 3 January 2025
6 January 2025	Email from VPI to Phillips 66 asking for confirmation on quantum and nature of abated product required under the amended ESA. Follow-up email sent on 15 January 2025.



Date	Correspondence
7 January 2025	E-mail from Phillips 66 to Pinsent Masons with further revised draft of the section 106 agreement.
7 January 2025	E-mail from Pinsent Masons to North Lincolnshire Council with revised section 106 agreement.
16 January 2025	Email from Phillips 66 requesting details on pricing formula for proposed ESA amendment (VPI has been delayed on getting these figures in the absence of confirmation from Phillips 66 as to what final quantum and abatement levels are required)

7.8 The Acquiring Authority has been in discussions with Harbour Energy Limited since 6 July 2021. A summary of key correspondence is set out in the table below:

Date	Correspondence	Summary of Correspondence
31 August 2021	Viking CCS (formerly VNetZero) – Onshore Interfaces	VPI, Phillips 66 and Viking CCS project overviews
7 October 2021	Humber Zero Interface Request	Interface Request from VPI & Phillips 66 to Harbour Energy: <ul style="list-style-type: none"> <li>• Viking CCS plot space requirement inclusive of fence boundary, and the physical assets (e.g. isolation valves, metering, and pigging facilities) that will be installed</li> <li>• Viking CCS expected location of physical assets</li> <li>• Viking CCS utility and communication requirements for T&amp;S facility</li> <li>• Viking CCS construction laydown space requirements</li> <li>• Viking CCS QRA assumptions</li> </ul>
4 March 2022	Humber Zero & Viking CCS (formerly VNetZero) Technical Integration	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Partner updates and significant developments</li> </ul>

		<ul style="list-style-type: none"> <li>• Technical interface requests</li> <li>• HSE, planning and permitting</li> </ul>
1 April 2022	Viking CCS (formerly VNetZero) – Extended Project Team Technical Meeting and Kick Off	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Process design – flow assurance, CO<sub>2</sub> specification, compression, operating modes</li> <li>• Safety design – functional system, control system, monitoring and technical safety</li> <li>• Mechanical design – Site selection, routing, major equipment items</li> </ul>
6 May 2022	Viking CCS (formerly VNZ) – Technical Integration Meeting	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Harbour Energy pipe routing drawings</li> <li>• Ground survey of VPI and Harbour Energy facilities</li> <li>• VPI and Harbour Energy Land access agreements</li> <li>• Project layouts</li> <li>• Project schedules</li> <li>• Project Master Deliverable Registers</li> </ul>
23 May 2022	Viking CCS (formerly VNZ) – Onshore Layout Review Workshop	VPI & Phillips 66 attendance of Viking CCS Project's Onshore Layout Review
1 June 2022	Viking CCS (formerly VNZ) – Technical Integration Meeting	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Harbour Energy pipe routing drawings</li> <li>• Ground survey of VPI and Harbour Energy facilities</li> </ul>

		<ul style="list-style-type: none"> <li>• VPI and Harbour Energy Land access agreements</li> <li>• Project layouts</li> <li>• Project schedules</li> <li>• Project Master Deliverable Registers</li> </ul>
21 June 2022	Technical alignment workshop	<p>VPI / Phillips 66 / Harbour Energy discussion of:</p> <ul style="list-style-type: none"> <li>• Service requirements including access and layout area</li> <li>• Onshore pipeline route</li> <li>• Operating scenarios including design pressure and temperature</li> <li>• CO<sub>2</sub> specification</li> <li>• Venting options (T&amp;S Proposals and VPI Current Design)</li> <li>• Pigging requirements (T&amp;S Overview and assumptions)</li> </ul>
6 July 2022	Viking CCS – Technical Interface Meeting	<p>VPI / Phillips 66 / Harbour Energy discussion of:</p> <ul style="list-style-type: none"> <li>• Ground survey of VPI and Harbour Energy facilities</li> <li>• VPI and Harbour Energy Land access agreements</li> <li>• Project layouts</li> </ul>
3 August 2022	Viking CCS – Technical Interface Meeting	<p>VPI / Phillips 66 / Harbour Energy discussion of:</p> <ul style="list-style-type: none"> <li>• Ground survey of VPI and Harbour Energy facilities</li> <li>• VPI and Harbour Energy Land access agreements</li> <li>• Project layouts</li> </ul>

7 September 2022	Viking CCS – Technical Interface Meeting	Abbreviated discussion of VPI / Phillips 66 / Harbour Energy interfaces
11 October 2022	Viking CCS – Technical Interface Meeting	<p>VPI / Phillips 66 / Harbour Energy discussion of:</p> <ul style="list-style-type: none"> <li>• Harbour Energy, VPI and Phillips 66 respective projects vs plan</li> <li>• Technical Interface Requests</li> </ul>
2 November 2022	Viking CCS – Technical Interface Meeting	Abbreviated discussion of VPI / Phillips 66 / Harbour Energy interfaces
7 December 2022	Viking CCS – Technical Interface Meeting	VPI / Phillips 66 / Harbour Energy discussion on agenda for Land and Sequencing Workshop
4 January 2023	Humber Zero – Land and Sequencing Workshop	<p>VPI / Phillips 66 / Harbour Energy discussion of:</p> <ul style="list-style-type: none"> <li>• Overview of each project plot plan/requirements <ul style="list-style-type: none"> <li>○ VPI - Capture plant</li> <li>○ VPI - Killingholme Drain relocation</li> <li>○ Phillips 66 - Carbon Capture pipe/cable routes</li> <li>○ Phillips 66 - Gigastack pipe/cable routes</li> <li>○ Harbour Energy - Plot layout</li> <li>○ Harbour Energy - Access Requirements</li> </ul> </li> <li>• Construction, timing and sequencing <ul style="list-style-type: none"> <li>○ Projects laydown and construction land requirements</li> <li>○ Access/Egress, transport</li> </ul> </li> </ul>

		<p>movements, Welfare facilities</p> <ul style="list-style-type: none"> <li>○ Key execution milestones</li> </ul>
5 January 2023	Humber Zero – Land and Sequencing Workshop	<ul style="list-style-type: none"> <li>• Continuation of construction, timing and sequencing</li> <li>• Process for management of overall plot</li> </ul>
21 February 2023	Viking CCS – Technical Interface Meeting	<p>VPI / Phillips 66 / Harbour Energy discussion of:</p> <ul style="list-style-type: none"> <li>• Sharing of topographical, geotechnical and underground survey results for the greenfield plot for the VPI HZ capture plant and Viking CCS T&amp;S facility.</li> <li>• Phillips 66's recommended extent of culverting of the diverted Killingholme drain.</li> <li>• Harbour Energy's commissioning/operational strategy and procedures</li> <li>• Development of an integrated schedule for all projects and stakeholders to align key execution milestones to avoid costly clashes during installation.</li> <li>• Permit to work systems and how execution activities in the field will be controlled between all stakeholders</li> </ul>
8 March 2023	Viking CCS – Technical Interface Meeting	<p>VPI / Phillips 66 / Harbour Energy discussion of:</p> <ul style="list-style-type: none"> <li>• Respective project progress</li> <li>• General technical interfaces</li> </ul>
24 April 2023	Viking CCS – Technical Interface Meeting	<p>VPI / Phillips 66 / Harbour Energy discussion of:</p>

		<ul style="list-style-type: none"> <li>• Respective project progress</li> <li>• General technical interfaces</li> </ul>
16 May 2023	Viking CCS – Technical Interface Meeting	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Respective project progress</li> <li>• General technical interfaces</li> </ul>
8 June 2023	Viking CCS – Technical Interface Meeting	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• T&amp;S compound requirements</li> <li>• General technical interfaces</li> </ul>
2 August 2023	Viking CCS – Technical Interface Meeting	Abbreviated discussion of VPI / Phillips 66 / Harbour Energy interfaces
6 September 2023	Viking CCS – Technical Integration Working Session Day 1	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Viking CCS Project Overview</li> <li>• Construction, Site Considerations (Access, layout and CCR location)</li> <li>• T&amp;S System Capacity, Specifications, Operating Philosophy, Venting, Isolations, Utilities</li> </ul>
7 September 2023	Viking CCS – Technical Integration Working Session Day 2	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• VPI and Phillips 66 Project Overview</li> <li>• VPI and Phillips 66 Project schedules</li> </ul>
23 November 2023	Phillips 66 / Harbour Land Rationalisation (technical) Meeting	VPI / Phillips 66 / Harbour Energy discussion of:

		<ul style="list-style-type: none"> <li>• Access corridor requirement by Phillips 66 for future services</li> <li>• Space requirements for potential future emitters to export CO<sub>2</sub> via the T&amp;S compound.</li> <li>• Harbour Energy's temporary and permanent access requirement to the south area for the construction and operation of the T&amp;S compound.</li> <li>• Collaboration on warehousing and laydown areas required for the construction of each project to assess potential synergies.</li> <li>• Emergency response requirements for all stakeholders during construction and operation phases.</li> <li>• Extension to the existing rail crossing pipe bridge and any new intermediate height pipe bridge to cross the open Killingholme drain would be lifted from the VPI side of the rail potentially using the crane pads that were installed for originally lifting in the pipe bridge.</li> <li>• Integrated plot plan for the VPI HZ and Viking CCS Projects</li> <li>• Commissioning procedures</li> </ul>
13 December 2023	Viking CCS – Emitter Technical Interface Meeting	<p>VPI / Phillips 66 / Harbour Energy discussion of:</p> <ul style="list-style-type: none"> <li>• Viking CCS DCO</li> <li>• Battery limits and isolations</li> </ul>

		<ul style="list-style-type: none"> <li>• Road access to site during construction and operation phase</li> <li>• Land available for laydown area during construction phase</li> <li>• Pedestrian access from T&amp;S compound to VPI HZ capture plant facility</li> </ul>
30 January 2024	Viking CCS – Emitter Technical Interface Meeting	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Harbour Energy utility requirement</li> <li>• CO<sub>2</sub> Specification</li> <li>• Pre-commissioning, commissioning and operations</li> </ul>
4 March 2024	Viking CCS – Emitter Technical Interface Meeting	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Respective project progress</li> <li>• General technical interfaces</li> </ul>
20 March 2024	Viking CCS Technical Kick Off Meeting with Technip Energies	Viking CCS FEED Project's kick-off meeting with VPI and Phillips 66 to discuss: project schedule, design assumptions, interface management and network code compliance.
17 April 2024	Viking CCS HAZOP Assumptions Meeting with Emitters	Viking CCS HAZOP Assumptions meeting with VPI and Phillips 66
6 May 2024	Viking CCS – Emitter Technical Interface Meeting	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Respective project progress</li> <li>• General technical interfaces</li> <li>• Development of Integrated Project Plot Plan</li> </ul>



3 June 2024	Viking CCS – Emitter Technical Interface Meeting	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Integrated Plot Plan</li> <li>• Construction dates for land requirement</li> <li>• General technical interfaces</li> </ul>
25 June 2024	Viking CCS – Emitters Workshop	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Integrated Plot Plan</li> <li>• CO<sub>2</sub> Pipeline Specification</li> <li>• CO<sub>2</sub> Pipeline Operation</li> </ul>
1 July 2024	Viking CCS – Emitter Technical Interface Meeting	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Respective project progress</li> <li>• General technical interfaces</li> </ul>
5 August 2024	Viking CCS – Emitter Technical Interface Meeting	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Harbour/Phillips 66 land allocation meeting</li> <li>• Respective project progress</li> <li>• General technical interfaces</li> </ul>
10 September 2024	Viking CCS – Emitter Technical Interface Meeting	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Development of T&amp;S layout based on integrated plan provided by Phillips 66 on 17/07/24</li> <li>• Pre-commissioning, commissioning and operations</li> </ul>
24 September 2024	Viking CCS – Emitters Workshop	VPI / Phillips 66 / Harbour Energy discussion of:

		<ul style="list-style-type: none"> <li>• Construction Workshop (road access, site layout and constructability, emergency response)</li> <li>• First Fill</li> <li>• Commissioning (Mechanical completion, Pre-commissioning, commissioning)</li> <li>• Phase transition from gas to dense phase</li> </ul>
7 October 2024	Viking CCS – Emitter Technical Interface Meeting	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• CO<sub>2</sub> Pipeline Operation</li> <li>• CO<sub>2</sub> Specification</li> <li>• Commissioning (Mechanical completion, Pre-commissioning, commissioning)</li> </ul>
4 November 2024	Viking CCS – Emitter Technical Interface Meeting	Abbreviated discussion of VPI / Phillips 66 / Harbour Energy interfaces
2 December 2024	Viking CCS – Emitter Technical Interface Meeting	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Respective project progress</li> <li>• General technical interfaces</li> </ul>
6 January 2025	Viking CCS – Emitter Technical Interface Meeting	VPI / Phillips 66 / Harbour Energy discussion of: <ul style="list-style-type: none"> <li>• Respective project progress</li> <li>• General technical interfaces</li> <li>• Emergency Workshop agenda</li> </ul>
10 February 2025	Viking CCS – Emitter Technical Interface Meeting	VPI / Phillips 66 / Harbour Energy discussion of:

		<ul style="list-style-type: none"> <li>• Respective project progress</li> <li>• General technical interfaces</li> <li>• Emergency Workshop agenda</li> </ul>
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## 8. THE PLANNING AND POLICY POSITION

- 8.1 The Planning Application has not yet been granted pending the completion of a section 106 agreement between the LPA, the Acquiring Authority and Phillips 66. The only obligation to be secured concerns the payment by the Acquiring Authority of a fixed contribution of £1,832,732 on commencement of development, for the Council to deliver the necessary biodiversity net gain off-site. The agreement is well advanced and the principle of the obligation to be secured has been agreed by the parties, subject to the Acquiring Authority entering into a deed of indemnity with Phillips 66. Phillips 66 have refused to continue negotiating the deed of indemnity, citing resourcing constraints imposed by the Acquiring Authority's CPO. The Acquiring Authority are now progressing alternative ways to facilitate the grant of planning permission without the need for Phillips 66's consent to enter into the section 106 agreement.
- 8.2 The Planning Application for the Proposed Development will be determined in accordance with section 70(2) of the Town and Country Planning Act 1990, which states that in dealing with applications, local planning authorities shall have regard to the provisions of the development plan and to other material considerations, and section 38(6) Planning and Compulsory Purchase Act 2004 which indicates that applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.3 The principle of the Proposed Development has policy support at all levels and it is considered that any adverse effects of the development are significantly outweighed by the very substantial benefits (see paragraph 6).

### National policy

- 8.4 Although CCS is not explicitly referenced in NPPF policy, Paragraph 157 establishes the planning system's overarching objective to support the transition to a low carbon future and support for low carbon energy and associated infrastructure. Paragraph 163 states that applicants should not be required to demonstrate the overall need for low carbon energy and recognises that even small scale low carbon developments play a valuable role in reducing emissions.

- 8.5 The need for carbon capture and storage is referred to as “urgent” in support of the transition to a net zero economy, in paragraph 3.5.1 of National Policy Statement EN-1. Further, paragraph 3.5.8 states that carbon capture and storage infrastructure, CCS technologies, pipelines and storage infrastructure are considered to be “*critical national priority (CNP) infrastructure*”. Paragraph 3.3.63 states that “*the urgent need for CNP infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy. Government strongly supports the delivery of CNP infrastructure and it should be progressed as quickly as possible*”.
- 8.6 The Proposed Development is not a nationally significant infrastructure project and so the policies in NPS EN-1 do not take priority over statutory development plan policies, however the NPS is still a material consideration in decision making relevant to applications under the Town and Country Planning Act 1990 and as such the status of the Proposed Development as CNP infrastructure remains relevant.
- 8.7 The overwhelming support for the Proposed Development in policy terms at a national level was bolstered further in December 2024, by the Labour Government’s Clean Power 2030 Action Plan, which states that up to 2.7GW of carbon capture (linked to power) will be required by 2030 to achieve the Government’s objective of a “Clean Power Grid”.<sup>24</sup> The Proposed Development is crucial in supporting the Government’s “Clean Power Mission” and ensuring progress towards the UK’s long-term net zero commitments. As decarbonised dispatchable power, it underpins continued growth in clean renewable energy and provides abated critical system services traditionally provided by unabated gas generation.

#### Statutory Development Plan

- 8.8 The following planning policy documents are considered most relevant to the Proposed Development:-
- 8.8.1 North Lincolnshire Core Strategy (Adopted June 2011);
- 8.8.2 North Lincolnshire Local Plan (Adopted May 2003) – Saved Policies; and
- 8.8.3 North Lincolnshire Housing and Employment Land Allocations Development Plan Document (Adopted March 2016).
- 8.9 These policies are considered in detail in paragraph 5.2 of the Planning Statement appended to this Statement.

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<sup>24</sup> [Clean Power 2030: Action Plan: A new era of clean electricity](#) page 111

- 8.10 Local planning policy explicitly supports CCS technology. North Lincolnshire Council Core Strategy (Adopted June 2011) Policy CS 18 supports new technology and development for CCS, particularly in relation to the heavy industrial users in North Lincolnshire, to help reduce CO2 emissions. Building on this, the Planning for Renewable Energy Development SPD supplements Policy CS18 identifying the South Humber Gateway, where the Proposed Development is located, as being ideally located for carbon capture development.
- 8.11 The Proposed Development relates to an existing industrial site (VPI Immingham CHP Plant and, through the energy provided to it, the Humber Refinery and Lindsey Refinery) and seeks to make the best use of existing infrastructure and operations to capture CO2 emissions, thereby being in accordance with the NLC Core Strategy Policy CS1 and CS11.
- 8.12 Achieving sustainable development is the core purpose of the NPPF, which has an economic, social and environmental objective. This purpose is reflected in NLC Policy CS2 where the achievement of sustainable development requires proposals to contribute to support a competitive business and industrial sector and also account for local environmental capacity and to improve air, water and soil quality and minimise the risk and hazards associated with flooding. This policy intent would be (in part) carried forward in the emerging Local Plan Policy PS1 'Presumption in Favour of Sustainable Development' wherein a positive approach to proposals which improve the economic, social and environmental conditions of the area are considered favourably. The Proposed Development would allow for favourable socio-economic outcomes in terms of enhanced and continued investment, employment opportunities and has been designed to avoid and minimise adverse impacts on human and environmental health and of course, mitigate the climate damage associated with carbon emissions.
- 8.13 The South Humber Bank Strategic Employment Site ('SHBSES') is a regionally important economic area characterised by energy intensive industry with VPI Immingham LLP being an important supplier of the energy (both to the National Grid, and locally to the two refineries). Local Plan Policy CS12 recognises the need to harmonise future employment related development in the SHBSES with environmental protection and improvement. Policy SHBE-1 in the HELA sets out a requirement for pollution control measure to be implemented wherever possible, and these requirements will be carried forward in the emerging Local Plan Policy SS10. Emerging Policy SS11 enables development outside of development limits where it requires a countryside location.

#### Other Material Considerations

- 8.14 Other material considerations including national planning policy and supplementary planning documents are considered in detail in paragraph 5.3 of the Planning Statement appended to this Statement.

### Emerging Policy

- 8.15 Emerging policies are considered in detail in paragraph 5.4 of the Planning Statement.

## **9. FINANCE FOR THE SCHEME**

- 9.1 The Acquiring Authority's corporate group earned adjusted revenues of £5,594,800,000 in 2022, with adjusted profits totalling £742,400,000.
- 9.2 The Acquiring Authority has approved and committed all funding required to get the Proposed Development to final investment decision, inclusive of the value of the Order Land (based on an open market valuation). In order to fund development costs (including land compensation), construction and operation of the Proposed Development, the funding organisation for all investments made into the Acquiring Authority is VPI Holding Limited. VPI Holding Limited is the parent company of the Acquiring Authority and is backed by the Vitol Group. The publicly available filed accounts for VPI Holding Limited shows a reported profit for the year ending 31 December 2023 of £643.6 million.
- 9.3 To further optimise the funding structure of the Proposed Development, the Acquiring Authority has identified substantial interest from external debt finance providers to invest in the Proposed Development and provide project financing. Therefore the Acquiring Authority has sufficient equity reserves, when combined with (i) shareholder equity/debt injections and/or banking credit lines, and (ii) significant non-recourse project funding available for Humber Zero, to fully fund and implement the Proposed Development. Important to note that the DESNZ revenue support models that economically underpin the Proposed Development have been designed specifically to ensure initial CCS projects such as the Proposed Development are bankable/financeable, which the credit markets have confirmed in a number of the Acquiring Authority's market sounding exercises and by the recently completed debt financing arranged in respect of the Net Zero Teesside project.
- 9.4 For the reasons set out above, the Acquiring Authority will have the necessary funds to meet the capital expenditure for the cost of the Proposed Development, and the cost of acquiring the necessary rights over land (whether compulsorily or by agreement) and any compensation otherwise payable as a result of the exercise of the powers in the Order.
- 9.5 It is not anticipated that any statutory blight claims will arise as a consequence of the Order, although should any claims arise, the costs of meeting claims that are upheld will be met by the Acquiring Authority from the sources of funding described above.

## 10. **OTHER CONSENTS AND RELATED APPLICATIONS**

- 10.1 Where any consents or licences are required other than those already mentioned in this Statement of Case, the necessary applications will be made to the appropriate consenting authority. The Acquiring Authority is not aware of any reasons why such consents or licences would not be granted.

## 11. **HUMAN RIGHTS**

- 11.1 The Human Rights Act 1998 incorporated into UK law the European Convention on Human Rights (the “**Convention**”). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.
- 11.2 The following Articles of the Convention are relevant to the Secretary of State's decision as to whether to confirm the Order:
- 11.2.1 Article 1 of the First Protocol: this protects the right of everyone to peaceful enjoyment of possessions and provides that no one can be deprived of their possessions except in the public interest and subject to the relevant national and international laws and principles.
- 11.2.2 Article 6: this entitles those affected by the powers sought in the Order to a fair and public hearing of any relevant objections they may have to the granting of those powers. This includes property rights and can include opportunities to be heard in the decision-making process.
- 11.3 The Secretary of State, as the decision maker, is under a duty to consider to what extent the Acquiring Authority's exercise of powers of compulsory purchase would be affected by the rights protected by the Convention.
- 11.4 The Order has the potential to infringe the rights of persons who hold interests in land under Article 1 of the First Protocol. Such an infringement is authorised by law so long as:
- 11.4.1 the statutory procedures for making the Order are followed and there is a compelling case in the public interest for the powers of compulsory purchase in the Order; and
- 11.4.2 the interference with the convention right is proportionate.
- 11.5 The Acquiring Authority has considered the potential infringement of the Convention rights in consequence of the compulsory purchase powers within the Order. The Acquiring Authority considers that there would be a significant public benefit arising from the Proposed Development. The Proposed Development can only be delivered if the compulsory purchase powers within the Order are granted.

- 11.6 The Acquiring Authority has concluded on balance that the significant public benefits of the Proposed Development outweigh the effects upon persons with interests in the Order Land.
- 11.7 Consultation has been carried out as part of the planning process for the Proposed Development. Further opportunities for consultation have been allowed within the planning appeal process. The Acquiring Authority will follow the existing legislative provisions relating to compulsory purchase and this allows for objections to be made and compensation is payable to those affected by the Order in accordance with the statutory Compensation Code.
- 11.8 Should the Order be confirmed, any person aggrieved may challenge the Order in the High Court.
- 11.9 In relation to matters of compensation for land, or rights over land, to be acquired, affected persons have the right to apply to the Upper Tribunal (Lands Chamber), which is an independent judicial body to determine the compensation payable.
- 11.10 For the above reasons, any infringement of the Convention rights of those whose interests are affected by the Order, is proportionate and legitimate and is in accordance with national and European law.
- 11.11 For the reasons set out in this Statement of Case, the Acquiring Authority considers that there is a compelling case in the public interest for the exercise of such powers of compulsory purchase. The Acquiring Authority considers that it would, therefore, be appropriate and proportionate for the Secretary of State to confirm the Order.

## 12. **THE ACQUIRING AUTHORITY'S RESPONSE TO OBJECTIONS RECEIVED TO THE ORDER**

- 12.1 Two objections to the Order were received by the Secretary of State. The nature of these objections and the Acquiring Authority's response is set out below.

### **Phillips 66 (Plots 1, 2, 3 and 4 – Table 1)**

- 12.2 In Phillips 66's objection letter, it confirms that it is the landowner of the Order Land and objects to the Order on the grounds that (i) the Proposed Development comprises activities which fall outside of the enabling powers authorised under the Electricity Act 1989; (ii) the Order is not being used as a measure of last resort; (iii) the Acquiring Authority does not have the necessary powers under the Electricity Act 1989 or under their Electricity Generation Licence; (iv) the Order would be inconsistent with several land agreements between Phillips 66 and the Acquiring Authority; (v) the Acquiring Authority has failed to consider and evidence that all reasonable alternatives to compulsory acquisition have been considered and are



unsuitable; (vi) the Acquiring Authority is reliant on funding from the VPI Group and has not evidenced funds necessary to deliver the scheme.

- 12.3 A summary of the grounds of objection and the Acquiring Authority's response is set out in table (i) below:

Table (i)

Ground	Summary of Objection	Acquiring Authority's Response
1.	<p><b>The Proposed Development comprises activities which fall outside the enabling powers authorised under the Electricity Act 1989.</b></p> <p>The Acquiring Authority has failed to show a satisfactory connection between the Proposed Development and the authorised activities under the Licence, specifically the generation of electricity for the purpose of giving a supply to any premises or enabling a supply to be given.</p> <p>The justification for the use of compulsory purchase powers at section 7 of the Statement of Reasons only provides for the capture of carbon emissions from the VPI Immingham CHP Plant and makes no sufficient connection between the Proposed Development and the generation of electricity by that plant.</p> <p>The Proposed Development and the rights sought by the Order have no impact on operation of the VPI Immingham CHP Plant and does not enable, or otherwise relate to, the generation of electricity by that station.</p>	<p>Paragraph 1 of Schedule 3 to the Electricity Act 1989 provides that the Secretary of State may authorise a licence holder to purchase compulsorily any land required for “any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on”.</p> <p>The Proposed Development relates to the operation of the VPI Immingham CHP Plant. It is directly and physically linked to the generating station and captures the emissions from that generating station. In those circumstances, the Acquiring Authority's view is that the authorisation in standard licence condition 14 does apply to the Proposed Development and a compulsory purchase order can be made.</p> <p>The Acquiring Authority also notes that the Secretary of State confirmed the Orsted Hornsea Project Three (UK) Limited (Ferry Road, Hartlepool) Compulsory Purchase Order 2023, for the acquisition of land rights necessary for the erection of nesting structures required as mitigation for an offshore wind farm and onshore cable route to be built pursuant to a separate development consent order. The creation of the habitat structures was found to be in connection with that acquiring authority's authorised activities under its Electricity Generation Licence. In our view, the capture of emissions generated by the generating station is similarly connected to the authorised activities under the Licence – being, the supply of electricity. The capture of emissions is closely connected to the authorised activities under the Licence, and in fact a necessary connection as the UK government imposes Clean Power 2030 obligations.</p>
2	<p><b>The Order is not being used as a measure of last resort per Section 2 of the CPO Guidance.</b></p> <p>Negotiations on land agreements to acquire the land and rights needed for the Proposed Development have been ongoing between Phillips 66 and VPI which would avoid</p>	<p>The Acquiring Authority has set out the extensive history of voluntary negotiations for the Order Land in paragraph 7. These negotiations have been ongoing since August 2021. It is the Acquiring Authority's view that given the negotiations have been ongoing for over 4 years and the</p>

Ground	Summary of Objection	Acquiring Authority's Response
	<p>the need for the Order, be consistent with the existing land agreements and allow the development of future planned projects.</p> <p>The Statement of Reasons fails to capture the issues behind the various delays in negotiations on the land agreements and the claim that the negotiations have stalled is inaccurate.</p> <p>Disagreements on key provisions of the land agreements were due to VPI's inflexibility and land documents could not be finalised until technical discussions were completed.</p> <p>The land agreement with VPI for the Proposed Development is considerably well progressed with only one significant point outstanding. VPI, therefore, appears to be making a CPO to overcome a single point of negotiation between parties on commercial terms which was previously resolved in the Harbour Energy Land Agreements.</p> <p>Reasonable efforts have not been made to secure the rights required for the Proposed Development.</p>	<p>parties remain at an impasse, the only way to proceed (and realise the benefits set out above) is to use the powers of compulsory purchase that are available in its Electricity Generation Licence.</p> <p>The Acquiring Authority agrees with Phillips 66 that the land agreement is well advanced, however unless the agreement is finalised and entered into, it cannot enable the delivery of the Proposed Development. The objection does not explain why there is an impasse in the negotiation between the parties. The land agreement is to facilitate the Humber Zero Project and without it, the Project is undeliverable – the Proposed Development will capture 3.3 of the 3.8 million tonnes of CO2. The funding structure for Humber Zero would not be available without the Proposed Development and the scale of carbon capture that it delivers. The other aspects of the Humber Zero Project – specifically the Humber Refinery Carbon Capture Plant (to capture the remaining 0.5 million tonnes of CO2) and the Viking CCS Transportation Pipeline – would be unviable without the Proposed Development supplying the vast majority of the CO2, sequestered from the VPI Immingham CHP Plant.</p> <p>The Acquiring Authority and Phillips 66 have a number of existing commercial supply arrangements for the provision of heat, steam and power. These supplies are provided by the Acquiring Authority to Phillips 66 from the VPI Immingham CHP Plant to the Humber Refinery. The terms on which the Acquiring Authority provides these services is set out in a document called an Energy Supply Agreement (“<b>ESA</b>”), and Phillips 66 is seeking a material and potentially uneconomic (to VPI) variation to the ESA alongside the land agreement required for the Proposed Development. Those negotiations have no bearing on the need for the Proposed Development, and the absence of agreement on the ESA is not relevant to the conclusion of the land agreement.</p> <p>Phillips 66 has made clear that if the new terms in the ESA are not agreed, the land agreement for the lease of the Order Land will not be completed. In effect, Phillips 66 has made the land agreement conditional on the Acquiring Authority agreeing to commercially</p>

Ground	Summary of Objection	Acquiring Authority's Response
		<p>separate terms for the provision of existing supplies of heat, steam and power to the Humber Refinery. Since this is a ransom position, the Order as a means of last resort to secure the deliverability of the Humber Zero Project.</p> <p>The assertion that the Proposed Development will prevent future connection to the Viking CCS Pipeline and other projects being delivered is not agreed or supported by evidence in the objection letter. This is simply an attempt to deflect from the reason why the land agreement will not be agreed by Phillips 66. No discussions have been had on the projects which would be compromised by the Proposed Development or on the inability of Phillips 66 to connect to the Viking CCS Pipeline. If these were the genuine concerns of the objector, the Acquiring Authority would have expected to have been discussing these items in the numerous meetings and negotiations that have taken place since August 2021.</p>
3	<p><b>There are no enabling powers for the Order to be promoted under VPI's Electricity Generation Licence or the Electricity Act 1989.</b></p> <p>The amendment to the standard licence conditions referred to at paragraph 3.6 of the Statement of Reasons is not provided and is not recorded on OFGEM's Electronic Public Register.</p> <p>Standard Condition 14 of OFGEM's Electricity Generation Standard Licence Conditions cannot be relied on by VPI to compulsorily acquire land under its electricity generation licence.</p> <p>VPI's electricity generation licence does not provide for compulsory purchase powers. Therefore, its enabling powers cannot be relied on under Standard Condition 14 or section 10 and paragraph 1 of Schedule 3 to the Electricity Act 1989.</p>	<p>A copy of the Modification Direction to the standard licence conditions is provided as an Appendix to this Statement of Case (see paragraph 14.1(h)), which incorporates standard condition 14 of OFGEM's Electricity Generation Standard Licence Conditions in to all Electricity Generation Licences. This Modification Direction remains the most up to date position from OFGEM and accordingly, standard licence condition 14 is available to the Acquiring Authority. Phillips 66's instructed solicitors have separately received a copy of this Modification Direction from the Acquiring Authority's solicitor and it is understood that this point of objection is not being maintained.</p>

Ground	Summary of Objection	Acquiring Authority's Response
4	<p><b>The Order would be inconsistent with several land agreements between Phillips 66 and VPI and affiliated companies, which VPI has not addressed.</b></p> <p>There are several existing land agreements which would conflict with the Order. The use of blunt compulsory purchase powers in this context is not expedient against that context, which undermines any compelling case in the public interest by virtue of the Order's potential chilling effect on other proposals.</p> <p>The Order seeks freehold rights over the Phillips 66 Land which would prevent future projects relying on the pipeline corridor.</p> <p>The Order would cut off the Humber Refinery from other Phillips 66 owned land, depriving Phillips 66 of commercial benefit.</p> <p>All three elements of the Humber Zero Project are interdependent – the Order presents significant risks to delivery of Harbour Energy's Viking CCS Network which would then also impact the VPI and Phillips 66 carbon capture plants.</p> <p>Funding as a Track-2 cluster from the Carbon Capture and Storage Infrastructure Fund is reliant on the Humber Zero project being a cluster with all three elements.</p> <p>It is not in the public interest for the Order to rely on the Viking CCS Network whilst also impeding it per the above.</p> <p>The Order does not seek to extend or affect VPI's interests in the VPI Immingham CHP Plant land, despite the time-period left on VPI's lease for the plant being inconsistent with the freehold acquisition of the Phillips 66 Land under the Order.</p>	<p>In respect of the existing land agreements:</p> <ol style="list-style-type: none"> <li>1. The Acquiring Authority has offered Harbour Energy an option to lease the land it requires to deliver the Viking CCS pipeline project on comparable terms to the option it enjoys with Phillips 66.</li> <li>2. The Acquiring Authority has received limited information from Phillips 66 with respect to the pipeline corridor, why this is required and the precise location of the corridor. The Acquiring Authority remains open to discussing how the Proposed Development interfaces with other Phillips 66 projects but such projects have not been disclosed to the Acquiring Authority.</li> </ol> <p>The use of 'blunt' compulsory purchase powers has become the final resort given the position taken by Phillips 66 in relation to the land agreement for the Proposed Development. As above, the Acquiring Authority has demonstrated that the other aspects of the Humber Zero project can come forward as a cluster, notwithstanding the use of compulsory purchase powers to deliver the Proposed Development. The chilling effect referred to in the objection letter is unfounded and assumes that the Acquiring Authority would seek to prevent the other aspects of the Humber Zero project coming forward, which ignores the fact that the Acquiring Authority needs the cluster to come forward to secure the Track-2 cluster funding. If Phillips 66 was willing to negotiate the land agreement without tying it to unreasonable ESA demands, the use of compulsory purchase powers would be unnecessary.</p> <p>As stated above, the Order does not compromise the Humber Zero project – it has become essential in order to deliver it. Harbour Energy has not been prevented from obtaining the necessary land rights required for the Viking CCS Pipeline – the Acquiring Authority has committed to providing them on the same terms well in advance of when such rights are required. The Order does not prevent the connection of the Humber Refinery to the Viking CCS Pipeline and no evidence to suggest it does has been provided to the Acquiring Authority.</p>

Ground	Summary of Objection	Acquiring Authority's Response
	<p>VPI has not demonstrated a compelling interest in the acquisition of the freehold interest in the Order land temporarily required for construction purposes.</p>	<p>It is not necessary for the Acquiring Authority to acquire the freehold interest in the VPI Immingham CHP Plant to deliver the Proposed Development and ownership of both the CHP Plant and the Carbon Capture Plant together is not necessary for the purposes of operation. The objection also assumes that the Acquiring Authority will not acquire a new lease on expiry of the current lease, which is still 22 years away. At the present time, it is only necessary to acquire rights in plot 1 to enable the Proposed Development to tie in to the existing CHP Plant to capture the emitted CO2.</p> <p>The Acquiring Authority accepts that part of Plot 2 is required temporarily for the construction compound and this is the same part of Plot 2 that is also required by Harbour Energy to complete the Viking CCS Pipeline. The land is required to deliver the Proposed Development as there is nowhere else to site the construction compound – so it is necessary to include this within the permanent land take on the basis that it is not legally possible to include powers of temporary acquisition within a compulsory purchase order at this time. The Acquiring Authority is open to discussing with Harbour or Phillips 66 (as may be necessary) the sale or lease of any of this land that is required temporarily by the Acquiring Authority, to assist with the delivery of Humber Zero.</p>
5	<p><b>VPI has failed to consider and evidence that all reasonable alternatives to compulsory acquisition have a) been considered and b) are unsuitable.</b></p> <p>The use of land to the east of the Order Land has not been properly explored and claims of engineering difficulties are not substantiated.</p> <p>Additional cost should not rule out alternative sites if they can be secured without the exercise of compulsory acquisition powers.</p>	<p>Please see paragraph 6.14 of this Statement of Case which explains the position on alternatives. The nature of CCS technology requires close proximity to an emitter and a transportation pipeline. This reduces the potential alternative sites considerably. Phillips 66 owns the majority of the alternative sites and these sites are committed for other developments and/or are technically unfeasible and/or would require the Order Land in any event. The only other sites which Phillips 66 does not own are to the east of Rosper Road. Those sites are either already subject to compulsory acquisition powers under a development consent order (Able Marine Energy Park) which remains extant, or are technically impossible to achieve.</p>

Ground	Summary of Objection	Acquiring Authority's Response
		Cost is not and has not been a sole factor to rule out alternative sites in the vicinity of the Order Land.
6	<p><b>VPI is reliant on funding from the VPI Group, however the Acquiring Authority has failed to evidence funds necessary to deliver the scheme and no mechanism has been established which would allow VPI to withdraw from the VPI Group.</b></p> <p>VPI is yet to resolve how it will deliver BNG under the S106 Agreement as required as part of VPI's Planning Application.</p> <p>There are practical implications of BNG if land is required for onsite or offsite provision and if credits are required, these could result in a very significant liability attaching to associated provisions in the S106 Agreement. This cannot be accepted without a reliable indemnity being evidenced.</p> <p>VPI has shown no evidence that it holds sufficient funds to cover the security required for BNG obligations / that the wider VPI Group will offer security.</p>	<p>As explained in this Statement of Case, the Acquiring Authority's group reported profits in excess of £742 million in the year ending 31 December 2022, and had total adjusted revenue of £6 billion. This parent company is domiciled in the UK and registered at Companies House. It would not be commercially realistic to expect the Acquiring Authority to provide evidence of cash reserves waiting to be invested when it is clear that the VPI Group has the funds to pay the necessary compensation for the land values concerned. As stated, the Acquiring Authority has also explored external debt funding and there are many offers available from established market lenders.</p> <p>The Acquiring Authority has reached agreement with the Local Planning Authority on a contribution in lieu of providing the biodiversity net gain onsite. This contribution can be paid on or prior to commencement of development. The Acquiring Authority has offered an indemnity to Phillips 66 in relation to the S106 Agreement however Phillips 66 is now refusing to continue negotiating on the section S106 agreement or the deed of indemnity.</p>

### **Viking CCS Limited/Harbour Energy (Plot 2)**

- 12.4 Harbour Energy are included in Table 2 of the CPO Schedule under other qualifying persons in accordance with section 12(2A)(b) of the Acquisition of Land Act 1981.
- 12.5 In its objection letter, Harbour Energy states that the Acquiring Authority is seeking compulsory powers for the acquisition of new rights over land in which Harbour Energy has an interest and that the acquisition and use of those rights by the Acquiring Authority could potentially adversely affect TWL's use of the relevant land.
- 12.6 A summary of the grounds of objection and the Acquiring Authority's response is set out in table (ii) below:



**Table (ii)**

Ground	Summary of Objection	Acquiring Authority's Response
1.	The Order would extinguish the Agreement for Lease that Harbour has entered into with Phillips 66 to provide Harbour with access to land under title number HS299803 as required for the delivery of the Viking CCS Project.	The Acquiring Authority is in the process of negotiating an Interface Agreement with Harbour Energy which will seek to facilitate the use of the shared area for both the Proposed Development and the Viking CCS Pipeline Project; regulate the use of powers of compulsory acquisition over the shared area; and if necessary or desirable to Harbour Energy to grant Harbour Energy an option over the shared area without delay and on substantially similar terms as its current option agreement with Phillips 66.
2.	The Order could force Harbour into a lengthy negotiation with VPI on an Agreement for Lease which may delay delivery of the Viking CCS Pipeline.	See above.
3.	If the terms of the Agreement for Lease were unacceptable, Harbour would consider using its own acquisition powers pursuant to the DCO for the Viking CCS Pipeline. This would apply over part of the land that the Order is being promoted over and would be a clash of compulsory acquisition powers.	See above.

### 13. CONCLUSION

- 13.1 The land and rights comprised in the Order Land are required to facilitate the construction and operation of the Proposed Development, forming the most significant part of the Humber Zero project.
- 13.2 The Acquiring Authority therefore considers that the land and rights comprised in the Order Land are required to enable the Acquiring Authority, as an Electricity Act 1989 licensee, to carry on the activities authorised by its licence and which relate to the operation of a generating station in accordance with OFGEM standard condition 14.
- 13.3 The land and rights comprised in the Order Land are no more than are reasonably necessary to facilitate the construction and operation of the Proposed Development. Furthermore, there is a compelling case in the public interest for the land and rights over land to be acquired given the positive benefits that the Proposed Development will generate, particularly in view of current UK energy and climate change policy relevant to decarbonisation of energy and industrial clusters.
- 13.4 In addition:
  - 13.4.1 Reasonable alternatives to compulsory purchase have been explored and are not technically or legally possible;
  - 13.4.2 It has been demonstrated that the interference with rights is for a legitimate purpose, is necessary and is proportionate;
  - 13.4.3 A description of the intended use of the land and rights to be acquired compulsorily has been provided;
  - 13.4.4 Commercial negotiations have been attempted over a sustained period of several years;
  - 13.4.5 An explanation has been provided as to how it is expected that the Proposed Development and the acquisition of the Order Land will be funded, as well as compensation in respect of the exercise of powers of compulsory purchase, which demonstrates that there is a reasonable prospect of the requisite funds being available;
  - 13.4.6 Article 1 of the First Protocol to the Convention has been considered and the Acquiring Authority believes that the public benefits outweigh interference with Convention rights.
- 13.5 It is therefore submitted that the Order be confirmed.

### 14. DOCUMENTS TO BE RELIED UPON AT INQUIRY

- 14.1 The Acquiring Authority intends to rely on the following documents and Appendices at public inquiry:

- (a) Written Resolution of the Board of Representatives of VPI Immingham LLP made on 16 September 2024
- (b) Generation licence dated 7 June 2002
- (c) Order and Order map made on 16 September 2024
- (d) Application Form dated 8 March 2023
- (e) Planning Statement dated March 2023
- (f) Location Plan
- (g) Layout Plan
- (h) Modification Direction Order dated 1 May 2007

14.2 Such Appendices are available for inspection at:

14.2.1 Immingham Library, Pelham Road, Immingham, DN40 1QF within opening hours; and

14.2.2 <https://vpi.energy/compliance/> (at all times)

**Dated 21 February 2025**