

VPI Immingham LLP (Land at Rosper Road)
Compulsory Purchase Order 2024

STATEMENT OF CASE

PHILLIPS 66 LIMITED

Objector

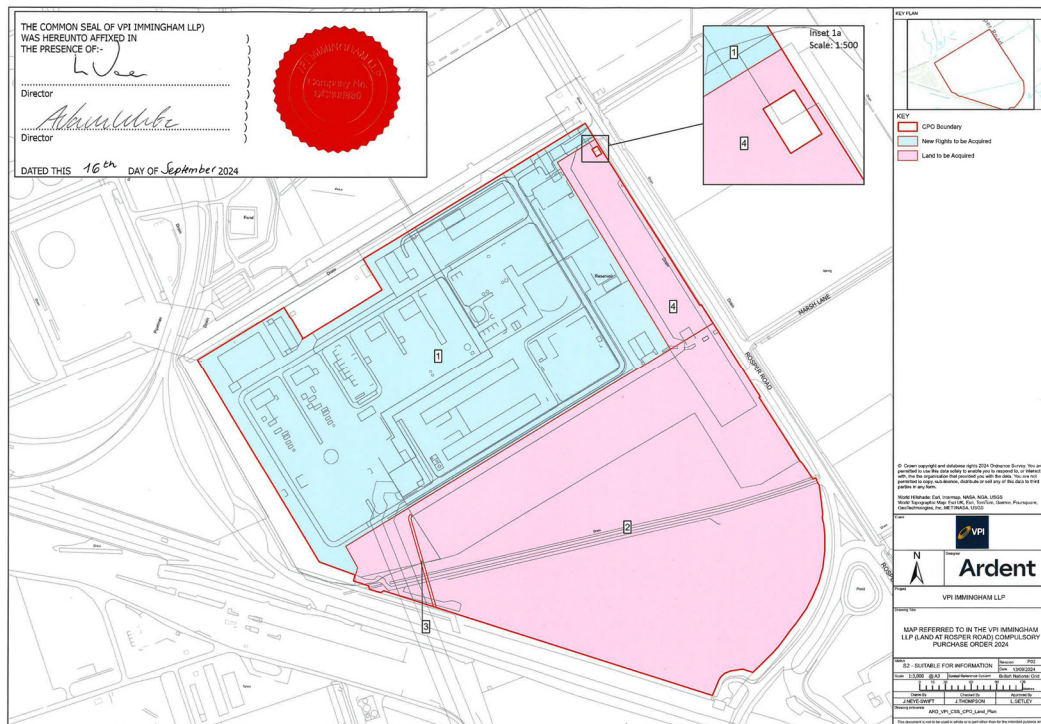
13 March 2025

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1 INTRODUCTION

- 1.1 On 16 September 2024 VPI Immingham LLP (“**VPI**”) resolved to make the VPI Immingham LLP (Land at Rosper Road) Compulsory Purchase Order 2024 (“**Order**”) as the acquiring authority pursuant to section 10 and paragraph 1 of Schedule 3 to the Electricity Act 1989 (the “**1989 Act**”).
- 1.2 After an initial Requisition of Information letter in August 2024, Phillips 66 Limited (“**P66**”) received formal notice of the making of the Order in a letter dated 17 September 2024 which enclosed the Order and a statement of reasons for the Order (along with its included appendices) (“**Statement of Reasons**”).
- 1.3 The Order was made while voluntary negotiations were underway to agree a lease of P66’s land to VPI and therefore the use of compulsory purchase powers to acquire land subject to ongoing negotiations came as a surprise to P66.
- 1.4 The Order has been made in order carry out development defined in the Statement of Reasons as 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 (“**the Proposed Development**”).
- 1.5 VPI made the Order for the purpose of carrying out the activities authorised by its generation licence under the 1989 Act and more particularly for purposes relating to the capturing of carbon dioxide emissions from the combined heat and power plant and ancillary or associated works and activities.
- 1.6 The land and rights to be purchased compulsorily under the Order relate to four numbered areas listed in Table 1 of the Schedule to the Order and shown in the map referred to in the Order (“**Order Map**”) reproduced below for reference.



- 1.7 P66 is the freehold owner of all four areas which comprise the land subject to the Order (the “**Order Land**”).

- 1.8 VPI splits the Order Land into two distinct areas described at paragraph 4.2 of the VPI Statement of Case as the “**P66 Land**” and the “**VPI Land**”¹. The P66 Land refers to the pink land numbered 2, 3 and 4 on the Order Map, and that the VPI Land refers to the blue land numbered 1. For the avoidance of doubt, P66 is the freehold owner of both the P66 Land and the VPI Land.
- 1.9 A detailed plan marking up VPI’s Site Plan for the Proposed Development is attached as **APPENDIX 1**. This shows the intended use of the Order Land under the Humber Zero scheme and identifies:
- (a) The area of the Order Land edged red which was being negotiated voluntarily for lease to VPI for the purpose of the Proposed Development (“**VPI Negotiated Lease Land**”);
 - (b) The land within the Order Land edged green which P66 has reserved for identified future projects including the access entry point for P66 and Harbour to use part of the Order Land south of the Proposed Development;
 - (c) The land edged purple for which Harbour Energy has negotiated a lease with P66 to enable the Viking CCS Network including for its permanent AGI (the above ground installation for the emitters to connect to the transport and storage network) and for temporary use as a construction laydown area as well as land which has been identified as a pipeline corridor for future use by Harbour Energy (“**Harbour Energy Lease Land**”); and
 - (d) The signposted land which has been identified as a pipeline corridor for use by P66 (“**P66 Pipeline Corridor**”).
- 1.10 VPI proposes to permanently acquire the freehold ownership of the P66 Land and to acquire rights over the VPI Land.
- 1.11 On 17 October 2024 P66 submitted a letter of objection to the Order (“**P66 Objection**”) on several grounds requesting that the Secretary of State does not confirm the Order and urging VPI to turn its focus to completing the negotiated agreements which would avoid the need for the Order and be consistent with the existing land agreements.
- 1.12 On 21 February 2025 VPI submitted its Statement of Case in respect of the Order (“**VPI Statement of Case**”).
- 1.13 P66 remains opposed to the Order and submits this Statement of Case, at the request of the Inspector, to be read in conjunction with the P66 Objection.

2 HUMBER ZERO

- 2.1 The Humber Zero project is a collaboration between VPI and P66 to deliver a key carbon capture project in the Humber Industrial Cluster. The Humber Industrial Cluster emits more CO₂ than any other industrial cluster and Humber Zero plans to be one of the largest retrofit carbon capture projects in the world - delivering almost a fifth of the UK Government’s 2030 targets for captured carbon.
- 2.2 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.
- 2.3 In April 2021, P66 signed a bilateral collaboration agreement with VPI to progress the joint development of the Humber Zero carbon capture projects. This agreement recognised the mutual requirements between the two parties for their respective projects to be viable. It was agreed between P66 and VPI that any land lease option between the parties would

¹ Referred to in the Statement of Reasons as the “VPI Immingham CHP Plant” or the “CHP Land”.

need to be contingent on the amendments required under the Energy Supply Agreement (“**ESA**”), an agreement which governs the supply of power and steam by VPI to P66 which is necessary for the P66 element of the Humber Zero project.

2.4 In July 2021 P66 signed a collaboration with Chrysaor Production (U.K) Limited (“**Chrysaor**”), a subsidiary of Harbour Energy PLC (“**Harbour Energy**”), to jointly develop the transport of CO2 from the P66 Humber Zero project through Harbour Energy’s proposed pipeline project. VPI signed a separate, similar document with Chrysaor at around the same time for transport of captured CO2 from the Proposed Development and in July 2021 P66 and VPI supported Chrysaor’s application to become a Track 1 Cluster as part of Phase 1 of the Government’s Cluster Sequencing process for carbon capture usage and storage (“**CCUS Cluster**”).

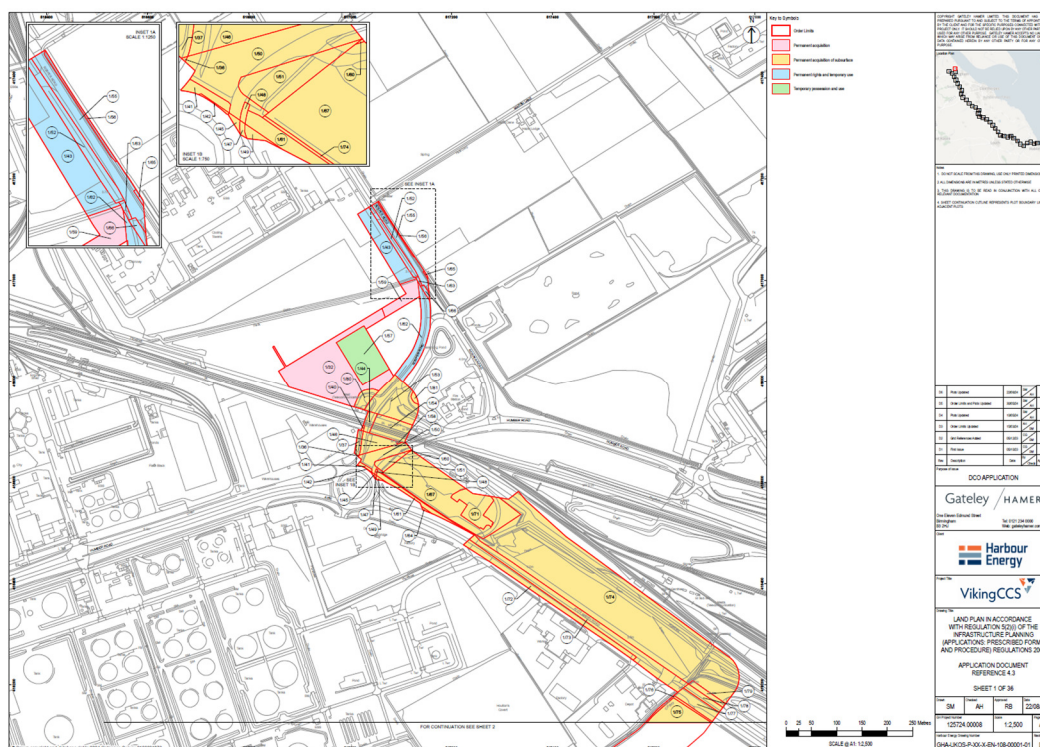
2.5 The first phase of Humber Zero will see the installation of two separate post-combustion carbon capture plants – one (the Proposed Development) at the VPI Immingham CHP Plant and the other at the Humber Refinery (“**P66 CC Plant**”). P66 has plans for further phases of Humber Zero which would capture additional emissions generated by the Humber Refinery’s operations. While fundamentally intertwined as part of a CCUS Cluster, they are promoted under separate planning applications and otherwise operate independently. The captured CO2 from these plants is then intended to be transported and stored by the Viking Carbon Capture Storage CO2 transportation and storage network – a project promoted by Chrysaor as a Nationally Significant Infrastructure Project (“**Viking CCS Network**”).

2.6 The Viking CCS Network

2.7 The statutory deadline for a decision on the Viking CCS Network DCO has been extended to 5 June 2025 and is therefore not anticipated ahead of the CPO Inquiry.²The DCO includes powers to enable Chrysaor to exercise powers of compulsory acquisition and take temporary possession of land comprised in the Order Land, as shown on the plan below.³

² Statutory Deadline extended by the Secretary of State for Energy Security and Net Zero on 5 March 2025.

³ Examination Document Reference [REP5-011].



2.8 Should the Viking CCS Network DCO be granted on these terms that DCO would authorise the compulsory acquisition of part of the Order Land. As shown in the above sheet of the Land Plans, the DCO provides for:

- (a) the permanent acquisition of the freehold of the pink land;
- (b) the permanent acquisition of the subsurface of the yellow land;
- (c) the permanent acquisition of rights and temporary use of the blue land; and
- (d) the temporary possession and use of the green land.

2.9 P66 and Chrysaor have negotiated voluntary agreements for this land to avoid the use of compulsory powers.

2.10 The P66 CC Plant at the Humber Refinery is currently the only project with planning permission, with applications for the other two projects comprised in the Humber Zero project being under consideration. The P66 CC Plant aims to capture at least 95% of the carbon dioxide produced from the Humber Refinery's fluid catalytic cracking process, which processes renewable and conventional feedstocks.

2.11 Funding for Humber Zero Projects

2.12 The economic incentives are such that UK industries cannot justify the capital costs and incremental operating costs of carbon capture and storage plant without Government subsidy. Ultimately, the Government would like higher UK ETS prices to drive future CCS investments. However, the Government recognises that placing a significant amount of additional cost on UK industry (not seen by its peers outside of the UK and EU) will lead to a lack of competitiveness, deindustrialisation, loss of UK jobs and emissions offshoring.

2.13 Government funding is predominantly provided by the Carbon Capture Usage and Storage Business Model support mechanism for projects which are currently within the UK's CCS Cluster Sequencing process (all of which will require significant government

funding). The CCS Cluster Sequencing allocates selected projects onto Track-1, Track-2 or Track-1 Expansion. For Track 1 alone, the government has budgeted £21.7 billion.

- 2.14 For a project to be selected into a Track and be eligible for funding support, it must be part of a CCS Cluster. The government defines a Cluster as a CO₂ Transportation and Storage (“T&S”) system plus a minimum of two capture projects (the “anchor” projects) which will send the captured CO₂ to the T&S system.
- 2.15 The UK Government’s Track-based application system also defines a detailed set of eligibility criteria for selection and funding. These vary slightly by project type but the key elements are for each project to:
- (a) Be a UK based project and applicant;
 - (b) Demonstrate its ability to connect to the relevant T&S system; and
 - (c) Be online by the Government’s target date (not yet published for Track 2).
- 2.16 In the case of the Immingham region, Harbour Energy was selected in December 2023 as the Track 2 T&S provider. The next step is for the Government to select the anchor projects. There are only two credible anchor projects for the Viking CCS Network; the P66 CCS Plant and VPI’s Proposed Development. These two projects are adjacent to the Viking CCS Network origination site, have competed FEED engineering processes and have been technically integrated with Harbour Energy for 3 years. Harbour Energy, in their advocacy to the UK Government on Track 2 progression, have been clear that these are the anchor projects for the Viking CCS Network.
- 2.17 The Track 1 competition launched in November 2021 for CO₂ capture projects, with both P66 and VPI submitting their Humber Zero projects for funding support. P66 was named in the government’s Track 1 shortlist in August 2022, but VPI was not shortlisted. In March 2023, it was then announced that no projects in the Humber Region would be progressed in Track 1.
- 2.18 On 20 December 2023, when the UK Government selected the Viking CCS Network as a Track 2 T&S system an online target date for Track 2 was provided as “by 2030”. However, no capture projects were announced, nor was a pathway to selection so P66 and VPI still do not have a path forward for funding under the scheme as Track-2 projects and the capture project timelines are now very likely to be pushed out to at least 2030.
- 2.19 While all three elements of Humber Zero are separate projects, they are interdependent as a CCUS Cluster and rely on funding from the Carbon Capture and Storage Infrastructure Fund. To be eligible for funding under this scheme, the projects must come forward as a cluster of at least two carbon capture plants and a transport and storage network.
- 2.20 The P66 CC Plant and VPI’s Proposed Development are the only credible carbon capture plants as “anchor emitters” to form the Cluster with the Viking CCS Network but no progress has been made on this issue such that P66 still remains uncertain as to whether the P66 and VPI projects will be selected for Track 2. There have been no announcements from the Government since December 2023 and there is significant uncertainty over whether the Government will proceed with Track 2 in its current form due to its financial constraints and evolving priorities.
- 2.21 P66 and VPI had both previously communicated to the Government that without selection as Track 2 emitters by Q3 of 2024, the then target date of 2028-9 would no longer be viable.
- 2.22 Given this interdependency and the ongoing uncertainty as to when the Government will select the Track 2 emitters, the decision to object to the Order has not been taken lightly.

However, P66 has fundamental concerns as to the impacts of the Order on its own project, the Viking CCS Network, and other planned and potential projects on its land. Furthermore, P66 does not consider that VPI has justified the extent of the land and rights sought, particularly in circumstances where VPI was negotiating a lease for a smaller area of land to enable the delivery of the Proposed Development and has provided no explanation of why it now requires a larger parcel and in circumstances where VPI has now confirmed through its Statement of Case that it is seeking to permanently acquire land which it only requires for temporary construction works.

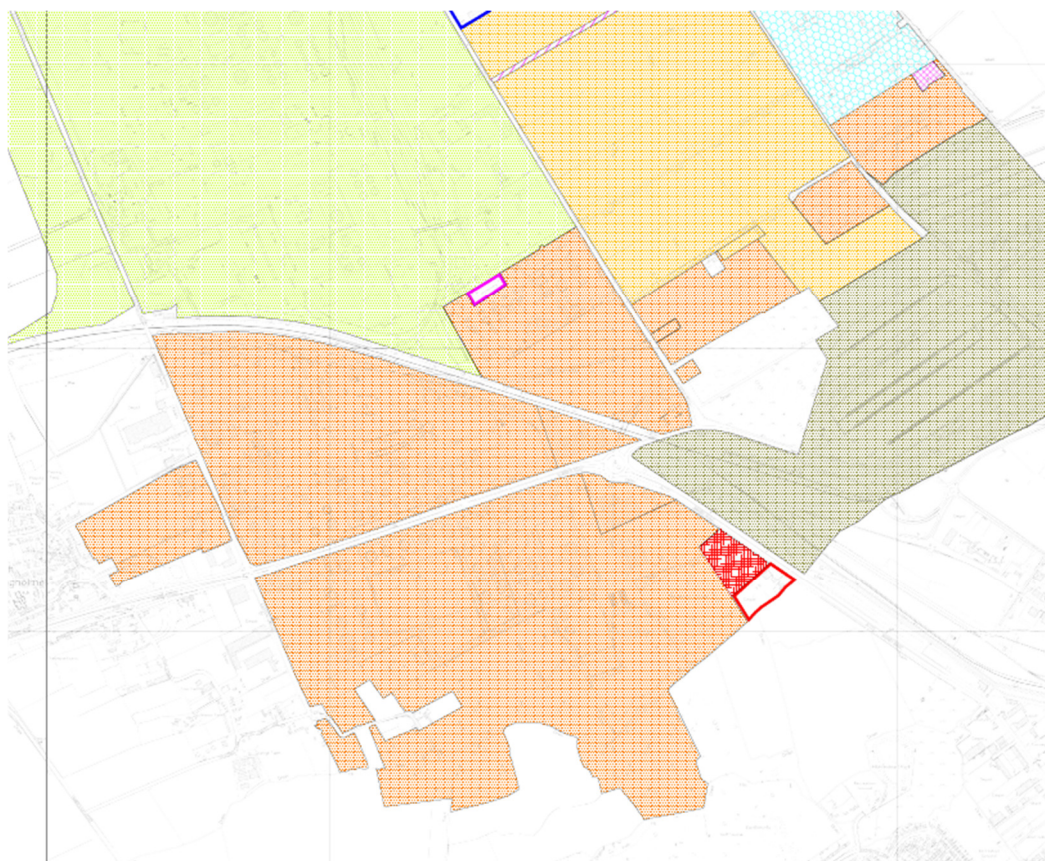
- 2.23 P66 requires additional power over what is allowed for in the existing ESA to deliver its element of the Humber Zero project (the P66 CC Plant). Similarly, VPI requires more land over what is provided for in the existing lease to deliver its element of the Humber Zero project (the Proposed Development). Both are required to enable the respective projects to come forward and both projects must come forward to form a cluster. This is why the land agreements and the amendments to the ESA have been progressed alongside one another. An impediment to the P66 CC Plant is an impediment to the delivery of the Cluster and therefore to the delivery of the Proposed Development.
- 2.24 It appears that VPI is using the compulsory acquisition process as a means to pressure P66 into agreeing terms in the ESA that are commercially unacceptable to P66. Indeed, VPI has indicated to P66 that if P66 is willing to accept its favoured ESA terms, VPI would be willing to withdraw its CPO.

3 PHILLIPS 66

- 3.1 P66 owns and operates the Humber Refinery, a key business within Yorkshire and the Humber region, providing significant economic opportunity and spending millions of pounds annually with over 1,000 businesses across the region.
- 3.2 The Humber Refinery is deemed to be Critical National Infrastructure by the National Protective Security Authority and is one of the most complex refineries in Europe with an expansive range of upgrading units that allow the refinery to manufacture a range of products, including materials not manufactured elsewhere in the UK or Europe.
- 3.3 The Humber Refinery is the UK's only producer of Sustainable Aviation Fuel at scale and provides approximately 15% of the UK's road fuel demand. The refinery is also Europe's only producer of specialty graphite cokes including battery coke (the precursor material to the synthetic graphite used to produce lithium-ion batteries for smartphones, tablets and the electric vehicles global supply chain) and graphite electrode coke (used to recycle steel in electric arc furnaces within the clean steel process).
- 3.4 P66 is also pursuing projects, technologies and collaborations that support decarbonisation and the U.K. Government's 2050 net-zero ambitions through its Ten Point Plan for a Green Industrial Revolution. This includes acquiring feedstocks and upgrading waste to lower-carbon fuels and products at the Humber Refinery.

3.5 P66 Land Holdings and interests in the Order Land

- 3.6 P66 is the freehold owner of all of the Order Land as well as land to the east, west, south and south-west of the Order Land. Plans showing the broader land holdings surrounding the Order Land and detailing the landholdings and lettings of P66 land surrounding the Order Land are attached as **APPENDIX 2** and **APPENDIX 3** respectively.
- 3.7 An excerpt of Appendix A2 is produced below for reference which shows the P66 landholdings in the red dotted hatching. The Order Land is the P66 landholding centred in this excerpt with the purple edged rectangle on its northern edge. The landholding to the west of the Order Land is the Humber Refinery.



- 3.8 The Order Land is currently subject to several land interests, including leases from P66 to VPI for the VPI Immingham CHP Plant land and to VPI Immingham B Limited for the VPI Immingham CHP Plant parking land. Both of these leases expire in February 2047.
- 3.9 P66 has also agreed a package of leases for parts of the Order Land (the Harbour Energy Lease Land) to Chrysaor under an Agreement for Leases dated 16 August 2024 to enable delivery of the Viking CCS Network. This predates the making of the Order and also safeguards the P66 Pipeline Corridor within the 'P66 Land' which is to be used for other projects, including a hydrogen pipeline, to allow connection between the Humber Refinery and P66 owned land to the north of the Order Land.
- 3.10 Voluntary negotiations on the land agreements to acquire the land and rights needed for the Proposed Development have been ongoing between P66 and VPI which would avoid the need for the Order, be consistent with the existing land agreements and allow the development of well-progressed future planned projects.

3.11 P66 Planned Projects

- 3.12 P66 has several planned uses for its land at varying levels of progress which rely on the P66 Pipeline Corridor to the south of the areas leased to VPI. A joint project with Uniper is planned which proposes a hydrogen pipeline running across the P66 Pipeline Corridor. This pipeline is required to supply green hydrogen to the Humber Refinery to replace some of the natural gas used in its industrial scale fired heaters and lower greenhouse gas emissions from its operations. This project was submitted into the UK Government 's Hydrogen Allocation Round 2 process in April 2024, also predating the making of the Order.
- 3.13 Negotiations have also commenced in relation to the purchase of renewable fuels from a production facility which will be built on land to the east of the VPI Immingham CHP Plant.

A pipeline would need to run from that site to the Humber Refinery using that same pipeline corridor.

4 LAND IMPACTED BY THE ORDER

4.1 The Order proposes to permanently acquire:

- (a) the freehold ownership of the P66 Land; and
- (b) permanent rights over the land currently leased to VPI to allow for the connection between the plant and the Proposed Development, and also to facilitate any access and other ancillary requirements necessary for the construction, operation and maintenance of the Proposed Development.

4.2 The VPI Statement of Case explains at paragraph 4.5 that part of the Order Land subject to proposed freehold acquisition is only required temporarily for use as a construction laydown area. No explanation has been provided as to why VPI considers it appropriate to acquire the freehold acquisition of land that it only requires temporarily. It would have been possible for VPI to acquire a package of rights over that land to enable it to be used as a construction compound, an approach commonplace in other CPOs where land is required for temporary construction works. There is no compelling reason in the public interest to acquire the freehold interest in land that is only required temporarily and VPI appear to have disregarded the impact of the Order on other planned uses for the Order Land.

4.3 VPI's Statement of Case also confirms that it is discussions with Harbour Energy to enter into an agreement to lease part of the Order Land subject to freehold acquisition to enable the delivery of the Viking CCS Network. It is not clear why VPI considers it necessary to permanently acquire the freehold interest in this land, only to lease it to Harbour Energy. As explained above, P66 has already entered into Agreements for Lease with Harbour Energy. It appears that VPI wishes to supplant P66's position as freehold owner of that land only to then lease it to Harbour Energy.

4.4 VPI explains in its Statement of reasons that it intends to subsequently offer land back to P66 to the extent that it is not required by Harbour Energy for the Viking CCS Network. However, this has not been raised with P66 and is not referenced in the VPI Statement of Case. Furthermore, it is incumbent on VPI to justify the extent of the Order Land and to explain why the powers it seeks represent a proportionate interference with P66's landownership rights. P66 does not consider that this has been established.

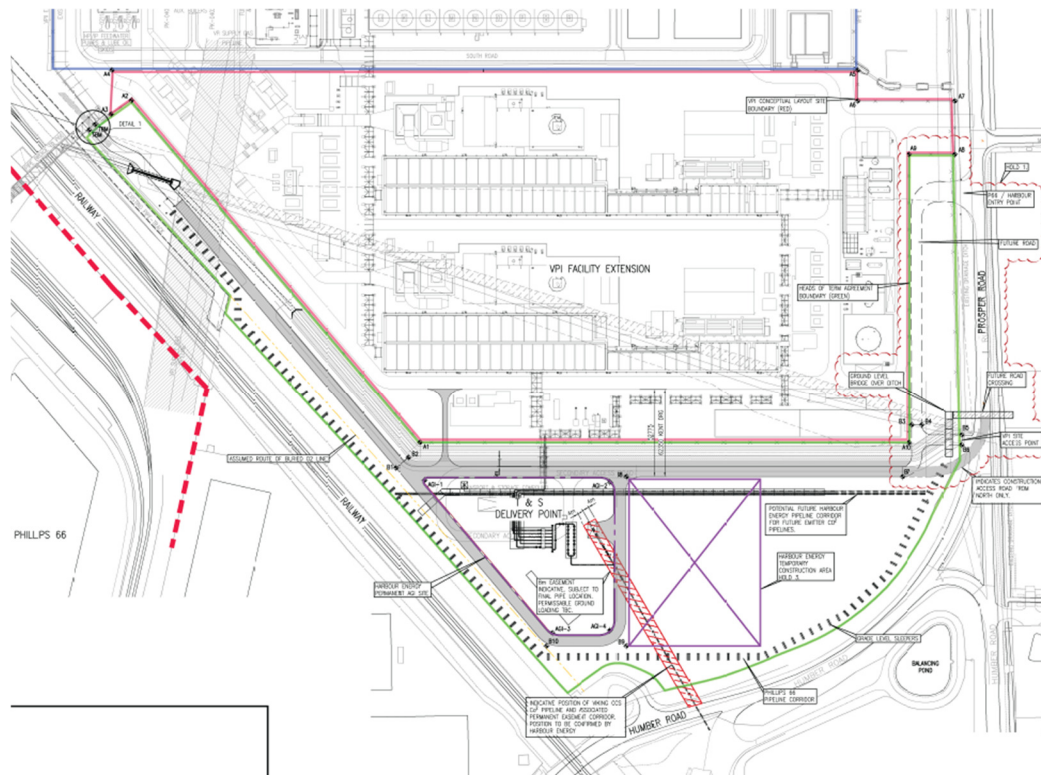
4.5 Engagement for Voluntary Acquisition

4.6 The Humber Zero collaboration between P66 and VPI began in August 2020 and was formally documented in April 2021 which commenced negotiations for VPI to acquire the necessary land rights for the Proposed Development from P66. These land rights would avoid the need for the Order, be consistent with the existing land agreements and allow the development of well-progressed future planned projects.

4.7 Negotiations were subject to several delays which were largely due to VPI's inflexibility on several key provisions and complex technical discussions between P66, VPI and Harbour Energy. As a direct comparison, the land agreements for the Harbour Energy Lease Land were negotiated and completed between P66 and Harbour Energy within 12 months. These negotiations involved the same issues and level of detail as within the VPI land agreement, but the negotiations were collaborative, with both parties seeking and finding suitable compromise.

4.8 The voluntary land rights negotiations to enable the delivery of the Proposed Development related to a smaller area of land than that which is now comprised in the Order. In particular, the land sought by VPI excluded the southern part of the Order Land as shown

in the plan at Appendix 1A. An excerpt of this plan showing the VPI Negotiated Lease Land edged red is provided for reference below.



- 4.9 VPI do not sufficiently address why a much larger area is now required and the Statement of Reasons acknowledges that this additional part of the Order land is only required temporarily for construction purposes. Alternatives of the scale of the land to be acquired compulsorily are not addressed in the Statement of Reasons or in the VPI Statement of Case.

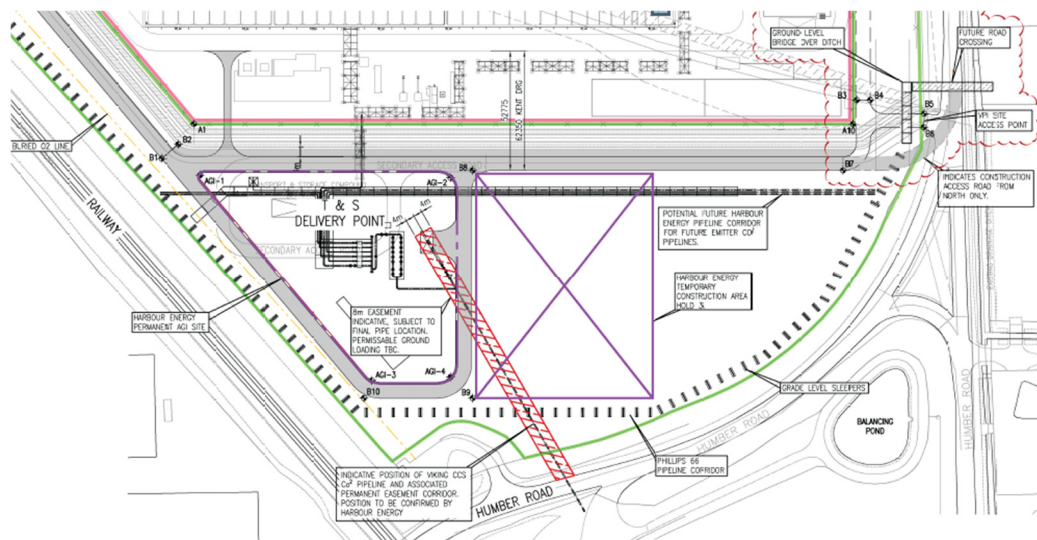
5 IMPACT OF THE ORDER ON P66 OPERATIONS

- 5.1 Paragraph 4.6 of the VPI Statement of Case states that, “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”. The apparent reasoning for this conclusion is that the land is landlocked by the existing VPI Immingham CHP plant and major transportation corridors. The view expressed by VPI is incorrect and illustrates VPI’s failure to fully consider the impact of the Order on P66. If the Order is confirmed in its current form, several existing agreements and planned projects would be critically impacted – including the Viking CCS Network.
- 5.2 The P66 land holdings in the area surrounding and including the Order Land are non-contiguous and connections between parcels are dependent on carefully planned agreements and development. This planning extends well into the future and VPI’s assertion that the Order Land has limited other uses on the basis that it is landlocked ignores the fact that the VPI Immingham CHP plant sits on land leased to VPI from P66 under a lease which expires in 2047.
- 5.3 P66 owns land to the east of Rosper Road, directly adjacent to the Order Land as shown on the land holdings plan at Appendix 2. In order to connect projects on this land to the main refinery site, P66 pipeline and cabling needs to cross Rosper Road and run through the Order Land. This is also the case for third party projects, to the north and east which require connections into the main refinery site.

- 5.4 VPI acknowledges that it is unaware of any proposals by P66 for the future use of the Order Land but incorrectly assumes that it would have been aware of any such proposals on the basis that VPI forms part of the Humber Zero cluster. There are significant elements of the Order Land which have planned future uses that do not materially impact VPI's current or proposed operations and so have not been shared.
- 5.5 A key strip of land within the southernmost part of the Order Land had been set aside by P66 to allow connection between the Humber Refinery and other P66 owned land beyond the Order Land. Several projects are dependent on this corridor and complex agreements recording the interests of the involved parties are significantly progressed and, in some cases, already in place.
- 5.6 In particular, P66 is involved in several decarbonisation projects that have been planned to reduce greenhouse gas emissions generated either by the Humber Refinery or from using products produced at the refinery – all of which are premised on access to the Humber Refinery via the P66 Pipeline Corridor. The projects are significant developments to achieve the Government's decarbonisation targets and P66's own decarbonisation goals for the Humber Refinery:
- (a) The Uniper Humber H₂ub (Green) project⁴ is being actively promoted in the Hydrogen Allocation Round 2. In March 2024, prior to the making of the Order, Uniper and P66 signed a collaboration agreement to work together towards a supply of green hydrogen from the Humber H₂ub (Green) project to the Humber Refinery. The hydrogen meets the UK Low Carbon Hydrogen Standard and would be used to replace some of the fossil fuel gas in industrial scale fired heaters as part of P66's plans to reduce the Humber Refinery's scope 1 operational emissions. This involves a pipeline running south-east down Rosper Road from Uniper's site at the northern end of Rosper Road before cutting south-west across the P66 Pipeline Corridor in the Order Land and connecting to the Humber Refinery. The project is targeted to be operational by 2029.
 - (b) P66 land east of Rosper Road adjacent to the Order Land has been earmarked for the Gigastack project – a precursor to the Uniper Humber H₂ub which remains an option for P66 to produce its own green hydrogen to supply the Humber Refinery via pipelines and cabling across the P66 Pipeline Corridor in the Order Land.
 - (c) P66 is also in active discussions with a plastic waste recycling company looking to construct a plant on either the P66 land to the east of Rosper Road or on the ABLE UK Limited land north-east of the Order Land. Both locations would require pipeline routings through the P66 Pipeline Corridor over the Order Land.
- 5.7 Under the agreed approach to land allocation between the three Humber Zero parties, none of these projects would have impacted VPI and therefore VPI was not directly engaged. However, given the public advocacy work done by P66 for the Gigastack and Uniper projects, it is anticipated that VPI is well aware of them.
- 5.8 These projects do impact the Harbour Energy Lease Land. For this reason, P66 and Harbour Energy discussed this requirement in detail and developed a solution amicably and efficiently for a land-crossing and associated installation rights within the signed lease and option agreements. This agreement and the associated P66 land crossing rights would be extinguished by the Order, severely impacting the viability of all of the above projects.

⁴ Uniper, *Humber H₂ub: A Green Hydrogen Project* <<https://www.uniper.energy/humber-h2ubr-green-project>> accessed 11 March 2025.

- 5.9 P66 continues to be approached with, and actively engages on, other proposals for decarbonisation projects for the Humber Refinery which would be premised on a pipeline running through the P66 Pipeline Corridor.
- 5.10 Without a land crossing and associated installation rights, P66 will end up with a parcel of land to the east of Rosper Road which cannot be connected to the refinery and is therefore of little or no use to P66. P66 would also be deprived of the opportunity to connect to the above projects or any other projects premised on a connection to the Humber Refinery which would jeopardise P66's decarbonisation plans and severely impact the UK government's decarbonisation targets.
- 5.11 The Order seeks freehold rights over this land which would prevent any future projects which rely on the P66 Pipeline Corridor and cut off the Humber Refinery from other P66 owned land.
- 5.12 The Order would undermine Harbour Energy's ability to deliver the Viking CCS Network which is critical to both the Proposed Development and to the proposed P66 CCS Plant. Indeed, VPI has accepted that the viability of the Proposed Development depends upon its connection to the Viking CCS Network.⁵
- 5.13 The detailed plan at Appendix A1 shows the intended use of the Order Land and illustrates where apparatus for the Viking CCS Network needs to be installed to allow all three elements to come forward as a CCUS Cluster. The part of the Order Land south of the Proposed Development is required to accommodate the Harbour Energy AGI site, temporary construction laydown area for the Viking CCS Network, a pipeline corridor for future use by Harbour Energy, the P66 Pipeline Corridor, and the buried pipeline connecting the P66 CC Plant to the Viking CCS Network. An excerpt of this area from Appendix A1 is provided below for reference.



- 5.14 In addition to the dependency on both the P66 CCS Plant and the Viking CCS Network, VPI's Statement of Reasons sets out the extensive policy support for CCS infrastructure like the P66 CCS Plant and the Viking CCS Network at section 7. This includes a summary of the public interest for the Humber Zero project specifically. The Order jeopardises the delivery of a critical part of the Humber Zero project by proposing freehold acquisition of land required for the Viking CCS Project.

⁵ VPI Statement of Reasons, at 9.5.
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6 REMAINING POINTS OF OBJECTION TO THE ORDER

- 6.1 Following the submission of the P66 Objection in October 2024 VPI's solicitors contacted P66 via email on 27 November 2024. This email addressed only one of the points raised at Section 7 of the P66 Objection regarding the availability of enabling powers under VPI's Electricity Generation Licence or the Electricity Act 1989.
- 6.2 In its objection, P66 had noted that Standard Condition 14 of OFGEM's Electricity Generation Standard Licence Conditions was excluded from VPI's Licence and, despite reliance by VPI on this Condition, no amendment or modification was provided or indeed was recorded on OFGEM's Electronic Public Register. VPI has subsequently provided documents confirming the application of Standard Condition 14. As such, P66 no longer pursues that aspect of its objection (which were addressed at paragraphs 7.1 to 7.7 of the P66 Objection).
- 6.3 Other than this, there has been no engagement from VPI on any of the remaining points of objection or justification for the identified conflicts with the CPO Guidance.⁶ P66's remaining grounds of objection to the Order are therefore:
- (a) **Ultra Vires CPO Powers:** The Proposed Development comprises activities which fall outside those authorised by the enabling powers of the Order.
 - (b) **Measure of last resort:** Voluntary negotiation to acquire necessary interests to enable the delivery of the Proposed Development is ongoing and close to completion. The Order is premature and reasonable attempts to acquire the land by agreement have not been exhausted.
 - (c) **The Order is inconsistent with existing Agreements:** The Order would be inconsistent with several land agreements between P66 and VPI and affiliated companies.
 - (d) **Alternatives:** VPI has failed to consider and evidence that all reasonable alternatives to compulsory acquisition have been considered.
 - (e) **Funding:** The Acquiring Authority, as a limited liability partnership, has failed to evidence funds necessary to deliver the scheme.
- 6.4 In addition to the above grounds, P66 does not accept the analysis at paragraphs 2.7 - 2.16 of VPI's Statement of Case which purports to explain why the Proposed Development can be consented through the Town and Country Planning Act regime. P66 considers that the Proposed Development forms an extension to a generating station for which development consent (rather than planning permission) is required. The absence of development consent, or even an application for development consent, presents an impediment to the delivery of the Proposed Development.
- 6.5 In light of these remaining issues, and the absence of any attempt by VPI to resolve these, P66 maintain that the Order should not be confirmed by the Secretary of State.

7 ULTRA VIRES POWERS

- 7.1 The Order is promoted under section 10 of and paragraph 1 of Schedule 3 to the Electricity Act 1989 and pursuant to Standard Condition 14(b) of the Licence to enable the Acquiring Authority to carry on the activities authorised by its generation licence and which relate to the operation of a generating station.

⁶ The Ministry for Housing, Communities and Local Government's 'Guidance on the Compulsory Purchase Process' (October 2024).

- 7.2 These powers enable the licence holder to purchase compulsorily any land required for any purpose connected with the carrying on of activities which they are authorised by the licence to carry on.
- 7.3 The enabling powers under the Electricity Act 1989 are limited in respect of electricity generation licence holders by section 10 to apply only to the extent that the relevant licence so provides. Schedule 3 enables the licence holder to purchase compulsorily any land required for any purpose connected with the carrying on of activities which they are authorised by the licence to carry on.
- 7.4 Standard Condition 14 of OFGEM's Electricity Generation Standard Licence Conditions³ provides that "*the powers and rights conferred by or under the provisions of Schedule 3 to the Electricity Act 1989 shall have effect in relation to the licensee to enable the licensee to carry on the activities authorised by that licence and which relate to specified activities, including the operation of a generating station*".
- 7.5 The activity which VPI is authorised by its 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.
- 7.6 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 connection between the Proposed Development and the generation of electricity by that plant. The Order provides for pipeline connections between the flue stacks of the plant and the Proposed Development to capture its byproduct emissions, but there is otherwise no connection.
- 7.7 The Proposed Development is a post-combustion carbon capture facility which removes carbon dioxide from emissions produced by the VPI Immingham CHP Plant, after electricity has been generated, to be compressed and transported by the Viking CCS Network. As explained in the Planning Statement included as Appendix 5 to the Statement of Reasons, there is no effect on the generation of electricity by the VPI Immingham CHP Plant and "the overall outputs of [the VPI Immingham CHP Plant] remain unchanged after the construction of the PCC plant (the Proposed Development)".
- 7.8 The Proposed Development therefore has no effect on the generation of electricity by the VPI Immingham CHP Plant or the supply of that electricity other than the capture of carbon emissions.
- 7.9 VPI has failed to show a satisfactory connection between the Proposed Development and the authorised activities to assert that the development enables those activities. 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. The use of enabling powers under the Electricity Act is therefore ultra vires.
- 7.10 Whilst the Proposed Development relies on the VPI Immingham CHP Plant, it has no impact on the operation of the plant for the purposes of generating electricity. The compulsory purchase of land to mitigate or offset the environmental effects of the VPI Immingham CHP Plant is not permitted under the enabling powers relied on and the Order is therefore Ultra Vires.

8 MEASURE OF LAST RESORT

- 8.1 Under Section 2 of the CPO Guidance, acquiring authorities should use compulsory purchase powers where it is expedient to do so and should take reasonable steps to attempt the acquisition of all of the land and rights included in the compulsory purchase order by agreement. Use of those powers is intended as a measure of last resort to secure the assembly of all the land needed for the implementation of projects.

- 8.2 Section 12.3 of the CPO Guidance reiterates that an order should only be made where there is a compelling case in the public interest and reasonable efforts have been made by the acquiring authority to negotiate the purchase of land by agreement.
- 8.3 Voluntary negotiations on the land agreements to acquire the land and rights needed for the Proposed Development have been ongoing between P66 and VPI which would avoid the need for the Order, be consistent with the existing land agreements and allow the development of well-progressed future planned projects. Whilst the timeline of engagement between VPI and P66 is summarised in a table at paragraph 7.7 of the VPI Statement of Case,⁷ this fails to capture the issues behind the various delays in these negotiations and the claim that negotiations have stalled on the agreement is inaccurate.
- 8.4 Several disagreements on key provisions of the agreements were due to VPI's unreasonable inflexibility and there were also necessary technical discussions taking place during this period between P66, VPI and Harbour Energy such that the land documents were not in a position to be finalised until these discussions were complete.
- 8.5 The proposed land agreement with VPI for the Proposed Development is considerably well progressed with only one significant point outstanding (regarding the level of security to be provided by the lessee). In an effort to progress this point, P66 obtained approval to share the security language from the associated Harbour Energy Land Agreements with VPI to support reaching agreement on both sets of land agreements on the same terms. This was shared 13 August 2024 and VPI indicated it would likely be acceptable subject to some checking. P66 was waiting for confirmation on this when notice was served regarding the making of the Order. P66 does not understand, and VPI has not explained, why the security provision, which Harbour Energy has accepted, should be unacceptable to VPI.
- 8.6 Continuing these discussions from the well-progressed state they were left in prior to the making of the Order is a reasonable step in the attempt to acquire the land by agreement and the use of compulsory powers is therefore neither expedient nor justified and has plainly not been pursued as a measure of last resort.
- 8.7 ESA Engagement**
- 8.8 Considerable time and effort has been expended by P66 to negotiate and conclude voluntary land agreements to enable the delivery of the Proposed Development. VPI discuss the engagement between the parties at section 7 of the VPI Statement of Case which also raises the associated Energy Services Agreement ("**ESA**") being negotiated between VPI and P66 alongside the land negotiations. VPI asserts that "*the ESA is completely unrelated to the Proposed Development or the wider decarbonisation agenda that the Proposed Development sits within*". However, this contradicts previous statements made by VPI which will be adduced in evidence that the two negotiations are related.
- 8.9 The ESA primarily relates to the supply of power and steam from VPI to P66 for the Humber Refinery. The availability of power and steam for P66 is limited by exclusivity clauses within the ESA and by the VPI Immingham CHP Plant sitting between the Humber Refinery and alternative grid connections or steam suppliers. This means that, much like VPI can only acquire at least some the land it needs for the Proposed Development from P66, P66 can only acquire the power and steam it needs for the P66 CC Plant from VPI. This relationship forms the basis for all negotiations on the ESA and land agreements between the parties and the recent negotiations on amendments to the ESA are explicitly tied the negotiations on land agreements for the Proposed Development.
- 8.10 The ESA is based on the Humber Refinery operating in a similar manner as it does today, without the additional demand for utilities which comes from a carbon capture plant.

⁷ Also provided at paragraph 8.2 of the Statement of Reasons.
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Therefore, both P66 and VPI acknowledge that the ESA requires amendments to provide additional utilities; without this the P66 CC Plant is infeasible and the Immingham cluster is not a Cluster as one of the key anchor projects would fall away leaving only one of the two required as a minimum by the UK Government.

- 8.11 The existing ESA allows for P66 to take sufficient steam for its future projects and therefore steam is not a concern. Rather, it is the maximum power levels available under the agreement which would prevent P66 progressing its carbon capture plans.
- 8.12 P66 has staged its projects to minimise the additional power (beyond the existing ESA) needed for the first phase of Humber Zero. Incremental increases in volumes are then needed at a later date for future phases. In communications since Q4 2024, P66 has also offered to drop the power requirement for the third and final phase of Humber Zero, given it is contemplating an alternative solution for that phase.
- 8.13 Power and steam pricing are already well defined under the ESA. Power pricing does not change with volume, but steam pricing is tiered with higher tiers being more expensive. In discussions which P66 held with VPI in May 2023, it was discussed (with no pushback from VPI) that utility prices for the additional volumes would remain at the existing price levels. Substantive negotiations on amendments to the ESA were then commenced between the parties in June 2023.
- 8.14 Following discussions on an incremental increase of power and steam required by P66 for each phase of Humber Zero and an electrification project being considered by P66, P66 made a formal request via the ESA for amendments to facilitate additional power and steam offtakes required for P66's carbon capture and electrification projects and to highlight any changes expected in steam offtake and refinery off gas balances arising from these projects.
- 8.15 The necessary information was provided to VPI in a letter dated 5 June 2023 which included a formal request that VPI investigate the most economical and technically reliable solution to provide the additional power requirements to the Humber Refinery. P66 followed up with an email on 3 July setting out implications of the projects on P66's steam and condensate requirements. However, no substantive reply was received from VPI until a Utility Coordination Meeting was held between the parties to jointly agree on technical solutions for the future utility needs of P66 on 14 September 2023.
- 8.16 The September Utility Coordination Meeting focused on the technical solutions to provide P66 with additional facilities and it was agreed that commercial meetings (to discuss amendments to the ESA for these increased facilities) would run alongside the technical discussions. VPI were then due to present a technical solution at the October Utility Coordination Meeting. However, at the October Meeting it was clarified that a non-interruptible supply (i.e. non-load shedding system) was required and because of the increased power requirements this would require a third grid connection. VPI established an internal team to evaluate these options.
- 8.17 On 2 February 2024 Mott MacDonald were instructed to prepare a report to identify and assess technical options. A first draft of this report was received on 20 June 2024 which detailed different options – retrofitting a new breaker into the existing system and extending the existing switchboard.
- 8.18 On 3 July 2024 P66 contacted VPI to express concerns regarding parts missing from the report which were agreed to be included. VPI were asked to advise their preference of the options identified and to include a comment on the immediate option of upgrading the existing over-head line system.
- 8.19 P66 raised several questions with VPI on the options report which were unanswered until November 2024 (after the making of the Order) when VPI asserted that it was P66's responsibility to request an upgraded over-head line. VPI also proposed additional draft

changes to the ESA which sought far higher utility costs that had not been previously raised.

- 8.20 In August 2024, with notice of the Order served, VPI indicated they wanted significantly more money for utilities under the ESA – not just for the Humber Zero project but also for existing volumes. VPI also proposed that the price increases become active immediately, almost 6 years in advance of the P66 CC Plant in the first phase of Humber Zero. The explanation given for this was that VPI were forecasting to be loss-making in the second half of the 2020s.
- 8.21 In November 2024 P66 held in person meetings to see how their ESA proposal could work on a theoretical basis - the analysis was not available for P66 to assess and there were no real figures or prices provided. VPI eventually issued its proposal on 11 February 2025 via a locked Excel model (followed by an unlocked model which could be evaluated on 21 February). The proposal is still under evaluation but VPI has asked for significant price increases for utilities at the same levels currently provided for by the ESA which is in place through to 2037.
- 8.22 These discussions on amendments to the ESA have stalled due to VPI's sudden insistence on unreasonable terms which has coincided with it making the Order. Since this point, discussions on the ESA amendments have consistently included references to the land agreements and the use of compulsory powers under the Order. In a recent presentation to P66, VPI has indicated that it would be prepared to drop its proposed compulsory acquisition of the Order Land if P66 agrees to its ESA terms. It appears to P66 that VPI is using the compulsory purchase process to exert pressure on P66 to agree to uneconomic commercial terms and/or to affect P66's bargaining position in those negotiations. At present, VPI relies on P66 for the land it requires to deliver the Proposed Development and P66 relies on VPI for the provision of power and steam which affects the relative bargaining positions of the parties.
- 8.23 The Order is being used as a negotiation strategy to strengthen VPI's bargaining position and would circumvent negotiation between parties on commercial terms before reasonable efforts have been made to secure the rights required for the Proposed Development. The Order is not being used as a measure of last resort and should therefore not be confirmed.

9 INCONSISTENCY WITH EXISTING AGREEMENTS

- 9.1 The Order prevents the development of the Viking CCS Network under an existing land agreement between Harbour Energy and P66. The importance of the Viking CCS Network is accepted by VPI and it is acknowledged that the Humber Zero project cannot proceed without it.
- 9.2 All three elements of the Humber Zero project (both post-combustion carbon capture plants at the VPI Immingham CHP Plant and at the P66 Humber Refinery along with the Viking CCS Network) are interdependent. This is recognised by VPI at paragraph 9.5 of the Statement of Reasons which states that the viability of the Proposed Development depends upon its connection to a transport and storage pipeline, to move the sequestered carbon to an offshore storage site.
- 9.3 Failure of one element affects the others and the Order presents significant risks to the Viking CCS Network which identifies the VPI and P66 carbon capture plants as "anchor projects". The Humber Zero project also relies on funding as a Track-2 Cluster from the Government's Carbon Capture and Storage Infrastructure Fund which relies on the project being a 'cluster' – having all three carbon capture, transport and storage elements of the Humber Zero project.

- 9.4 The failure to properly consider how the interests of P66, Harbour Energy and the Humber Zero project which are directly and significantly affected by the exercise of these compulsory purchase powers is contrary to 13.4 of the CPO Guidance.
- 9.5 P66 and Chrysaor Production (U.K) Limited (a subsidiary of Harbour Energy) have signed a negotiated land option agreement (dated 16 August 2024) for the Harbour Energy Lease Land to develop a portion of this land required for the Viking CCS Network.
- 9.6 The agreement also specifies and safeguards a corridor of land within the 'P66 Land' section of the Order Land which is to be used for other projects, including a hydrogen pipeline, to allow connection between the Humber Refinery and P66 owned land to the north of the Order Land. The compulsory acquisition of freehold rights over this land would prevent any future projects which rely on that pipeline corridor and cut off the Humber Refinery from other P66 owned land and deprive P66 of a key commercial benefit derived from that other owned land.
- 9.7 The Order is also inconsistent with VPI's own leases which will all have expired by February 2047. The Order does not seek to extend or otherwise affect VPI's interest in the VPI Immingham CHP Plant land it leases from P66, save for the acquisition of rights to facilitate the connection of the Proposed Development and various ancillary activities. The Order would therefore result in VPI holding inconsistent rights over the land on which its CHP Plant and the associated carbon capture plant (the Proposed Development) are located.
- 9.8 The use of blunt compulsory purchase powers in this context is not expedient and undermines any compelling case in the public interest by virtue of the Order's prejudicial effect on other proposals.
- 9.9 The impact of the Order on Harbour Energy's ability to deliver the Viking CCS Network critically undermines any justification for the Order. The inconsistency of the Order with existing agreements has not been adequately addressed by VPI and the Secretary of State should not confirm the Order.

10 ALTERNATIVES

- 10.1 VPI has not adequately explored or explained the consideration of alternative sites which could avoid the need for compulsory acquisition. The reasons expressed in its Statement of Reasons and Statement of Case are fleeting and inadequate. In particular, the consideration of using land to the east and north-east of the Order Land has not been properly explored and claims of engineering difficulties are not substantiated.
- 10.2 The critical considerations to site viability identified at 7.19 of the Statement of Reasons are proximity to the VPI Immingham CHP Plant and proximity to the Viking CCS Network. VPI suggests that the land to the east (North of Marsh Lane) was discounted because it is separated by a public highway which is said to present technical difficulties.
- 10.3 As explained in the P66 Objection, gas pipelines regularly cross public highways and land is already available to VPI under existing option agreements. Planned Projects on P66 land to the east of the Order Land are intended to connect to the Humber Refinery which will involve crossing Rosper Road. Whilst the pipeline for the Proposed Development may present different technical considerations, P66 has seen no technical or engineering analysis to suggest that the need to cross Rosper Road presents an insurmountable technical challenge.
- 10.4 VPI has also failed to consider the alternative of splitting the Proposed Development with some equipment on both sides of Rosper Road to avoid having the larger flue gas ducting cross Rosper Road and only smaller pipelines similar to those which currently cross Rosper Road at the northern corner of the Order Land. VPI has failed to adequately

consider how the additional land available east of Rosper Road could be utilised to minimise the Order Land required.

- 10.5 To the north-east of the Order Land is the ABLE Marine Park which is held by ABLE UK Limited (as shown on the landholding plan at Appendix 2). This is a significant landholding of roughly 800 acres. Following the loss of a major turbine blade contract to another UK port, P66 is aware that the owners are actively looking to commercialise this site which could easily incorporate all or part of the Proposed Development.
- 10.6 P66 therefore maintains its position that, in light of the fact that acquisition of the current Order Land has the potential to prejudice several projects which share the same policy support and public interest as the Proposed Development, alternative land must be properly considered and assessed before it can be discounted as an alternative that would avoid the need for compulsory acquisition.
- 10.7 VPI has also failed to adequately consider alternative sites for its construction laydown area in its assessment of alternatives.

11 FUNDING

- 11.1 The CPO Guidance requires substantive information as to the sources of funding available for both acquiring the land and implementing the scheme for which the land is required. The Statement of Reasons addresses these requirements by referencing the financials of the wider VPI Group. However, as highlighted in the P66 Objection, no mechanism is identified which would enable VPI as a limited liability partnership company to draw down these funds from its parent or affiliate companies.
 - 11.2 In previous discussions between P66 and VPI on agreements for the VPI Negotiated Lease Land P66 requested that a Parent Company Guarantee be given for VPI as security. However, VPI were unwilling or unable to do this and refused to do so on the basis that VPI was too far removed from the wider Vitol Group. It is not clear why VPI should be unable to secure a Parent Company Guarantee from the wider Vitol Group while at the same time confirming that it is able to draw down on funding from that group for the Proposed Development.
- ### **11.3 Section 106 Agreement**
- 11.4 The Statement of Reasons refers at section 9 (Impediments) to a Section 106 Agreement which is required to facilitate the grant of planning permission for the Proposed Development. P66 is required to be a party to the agreement as the freehold landowner and has raised concerns regarding security over the obligations binding its land.
 - 11.5 The Section 106 Agreement includes Biodiversity Net Gain obligations which exposed P66 to liability that could have required P66 to provide long term biodiversity works on that land (or on other land it owns) or to purchase credits. In negotiation with North Lincolnshire Council that issue has been resolved by delivery of the Biodiversity Net Gain through the purchase of credits. With the delivery of Biodiversity Net Gain is now largely resolved, the only outstanding issue is an appropriate and reliable indemnity protecting P66 being completed.
 - 11.6 At paragraph 9.2 the Statement of Reasons sets out that VPI intend to indemnify P66 in respect of obligations under that agreement. However, P66's concerns remain as there has been no evidence that VPI hold sufficient funds to cover the security required for those obligations. While the Statement of Reasons at section 11 sets out that VPI will rely on the wider Vitol Group to fund the scheme, no such security has been offered in respect of the Section 106 Agreement.

11.7 Humber Zero Funding

- 11.8 The Humber Zero project also relies on funding as a Track-2 cluster from the Government's Carbon Capture and Storage Infrastructure Fund which relies on the project being a 'cluster' – having all three carbon capture, transport and storage elements of the Humber Zero project.
- 11.9 It is understood that the UK Government's selection and funding process for the Track-2 projects has been pushed out until at least Q3 2025 due to a broader Government spending review and a review of one or more of the Government's CCS business models. This will delay P66 and VPI's CCS projects, with VPI's existing timeline being rendered untenable and subject to delay. This also impacts VPI's ongoing CHP Plant operations as VPI has informed P66 that it needs to invest significant funds of around £100m to upgrade/refurbish some of the CHP Plant's gas turbines to keep them operating. It is understood that VPI intended to fold this expenditure into their CCS project costs which would be supported by a government subsidy via the relevant CCS business model. However, with the project timeline now very likely to be pushed out to at least beyond 2030 and the risk of significant changes to the relevant CCS business model, this may no longer be possible.
- 11.10 Unless and until that funding is available through the Track 2 process, P66 understands that VPI does not have the funding to cover those upgrade and refurbishment costs or to deliver the Proposed Development. Given the delay in the Government's Track 2 process, there is no urgency for VPI to acquire land for the Proposed Development, and time is available to continue to engage in negotiations for voluntary agreement. Until the Proposed Development has been selected as a Track 2 project and funding is available, there is no prospect of the Development coming forward.

12 CONSENTING REGIME FOR PROPOSED DEVELOPMENT

- 12.1 VPI has applied for permission for the Proposed Development under the Town and Country Planning Act 1990. However, as acknowledged in VPI's Statement of Case, there is "uncertainty around the consenting route for carbon capture and storage projects".

12.2 Purpose of the Enabling Powers

- 12.3 The enabling powers under the Electricity Act 1989 are limited in respect of electricity generation licence holders by section 10 to apply only to the extent that the relevant licence so provides. Schedule 3 then enables the licence holder to purchase compulsorily any land required for any purpose connected with the carrying on of activities which they are authorised by the licence to carry on.
- 12.4 Standard Condition 14 of OFGEM's Electricity Generation Standard Licence Conditions provides that the powers and rights conferred by or under the provisions of Schedule 3 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 specified activities, including the operation of a generating station:

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;*
- (b) the operation of a generating station; and/or*

...

- 12.5 The Order is promoted under section 10 of and paragraph 1 of Schedule 3 to the Electricity Act 1989 and pursuant to Standard Condition 14(b) of VPI's Electricity Generation Licence which together grant compulsory acquisition powers to the Acquiring Authority to enable the carrying on of activities:
- (a) authorised by its generation licence; and
 - (b) which relate to the operation of a generating station.
- 12.6 The activity which VPI 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.
- 12.7 In order for VPI to be able to rely on the enabling powers it must therefore demonstrate that the compulsory purchase of the Order Land is required for a purpose which is connected to the generation of electricity and which relates to the operation of a generating station. While VPI acknowledges that the Proposed Development is related to the operation of the VPI Immingham CHP Plant, it incorrectly frames these limbs of the enabling powers.
- 12.8 Paragraph 2.7 of VPI's Statement of Case asserts that compulsory purchase powers may be used where the proposed development relates to the operation of a generating station but omits the first limb that these powers only have effect in so far as they enable the license holder to carry on the activities authorised by its license.
- 12.9 VPI's analysis at paragraph 2.15 of the Statement of Case on whether the Proposed Development relates to the operation of a generation station or forms the extension of one is therefore fundamentally flawed because it must be both in order to benefit from the enabling powers.

12.10 Legislative NSIP Framework

- 12.11 Development consent is required under section 31 of the Planning Act 2008 for development that is, or forms part of, a nationally significant infrastructure project ("NSIP"). Section 14(1)(a) of the Planning Act 2008 defines an NSIP as including a project which consists of "the construction or extension of a generating station".
- 12.12 Sections 15(1) and 15(2) provide that the construction or extension of a generating station is within section 14(1)(a) if the generating station is or (when constructed or extended) is expected to be, (a) in England, (aa) does not generate electricity from wind, (b) is not an offshore generating station, and (c) has a capacity of more than 50 megawatts.
- 12.13 Section 235(1) of the Planning Act defines "extension", in relation to a generating station, as having the meaning given by section 36(9) of the Electricity Act. That section provides the below definition, which is mirrored in OFGEM's Standard Conditions at Condition 14(3)(b):
- "extension", in relation to a generating station, includes the use by the person operating the station of any land or area of waters (wherever situated) for a purpose directly related to the generation of electricity by that station and "extend" shall be construed accordingly.*
- 12.14 When taken together, the effect of the relevant provisions of the Planning Act 2008, the Electricity Act 1989 and Condition 14 of OFGEM's Standard Conditions is that development consent is required under the Planning Act 2008 as an extension of a generating station if both of the below elements apply:
- (a) the relevant generating station is or (when constructed or extended) is expected to be in England, not generating electricity from wind, and generating a capacity of more than 50 megawatts; and

- (b) the development includes the use by the person operating the station of any land for a purpose directly related to the generation of electricity by that station.

12.15 The Drax Bioenergy with Carbon Capture and Storage Project is a recent example of an applicant seeking development consent for the installation of post combustion carbon capture technology to an existing generating station. The installation of the carbon capture and storage technology was consented by the Secretary of State as an extension of the generating station on the basis that the installation of that technology was “directly related” to the generation of electricity.

12.16 Requirement for Development Consent

12.17 The VPI Immingham CHP Plant is a generating station for the purposes of the Planning Act 2008, being located in England and generating 1240 megawatts. The Proposed Development comprises a post-combustion carbon capture plant adjacent to and serving that generating station and is promoted at paragraphs 3.9 and 14.2 of the Statement of Reasons as comprising activities which “relate to the operation of a generating station”.

12.18 The Statement of Reasons and related planning documents appended to it clearly indicate that the Proposed Development and the CHP Plant are considered and intended to be two parts of the same development. They explain that the Proposed Development is sited at or within the VPI Immingham CHP Plant and is designed so that rights and facilities can be shared between the two to support both construction and ongoing operations. The Proposed Development will integrate with the existing operational infrastructure, sharing areas for construction laydown and operating under environmental permits that are variations of those currently held by the CHP Plant.

12.19 The only activity authorised under VPI’s Electricity Generation License is the generation of electricity for the purpose of supply of that electricity. VPI acknowledges that its proposal is to use land to carry on the activities authorised by its licence. VPI’s reliance on these enabling powers confirms that the Proposed Development is connected with the generation of electricity at the VPI Immingham CHP Plant.

12.20 Under the Planning Act 2008, the use of land for the purposes directly related to the generation of electricity from an NSIP generating station amounts to an extension to that generating station. The scheme underlying the Order, as applied for under the enabling powers, must therefore meet those tests and as such constitutes an NSIP requiring development consent.

12.21 VPI purports to differentiate the Proposed Development from the Drax Bioenergy carbon capture projects which required development consent at 2.12 of the VPI Statement of Case on the basis that the carbon capture apparatus is not comprehensively interwoven within the existing generating station.

12.22 However, the technical apparatus and how closely that is interwoven with the existing generating stations is functionally identical between the Proposed Development and the Drax project. Both projects use the same amine based post-combustion carbon capture technology as proposed by VPI and the basis for VPI’s differentiation has not been evidenced.

12.23 Lack of Development Consent

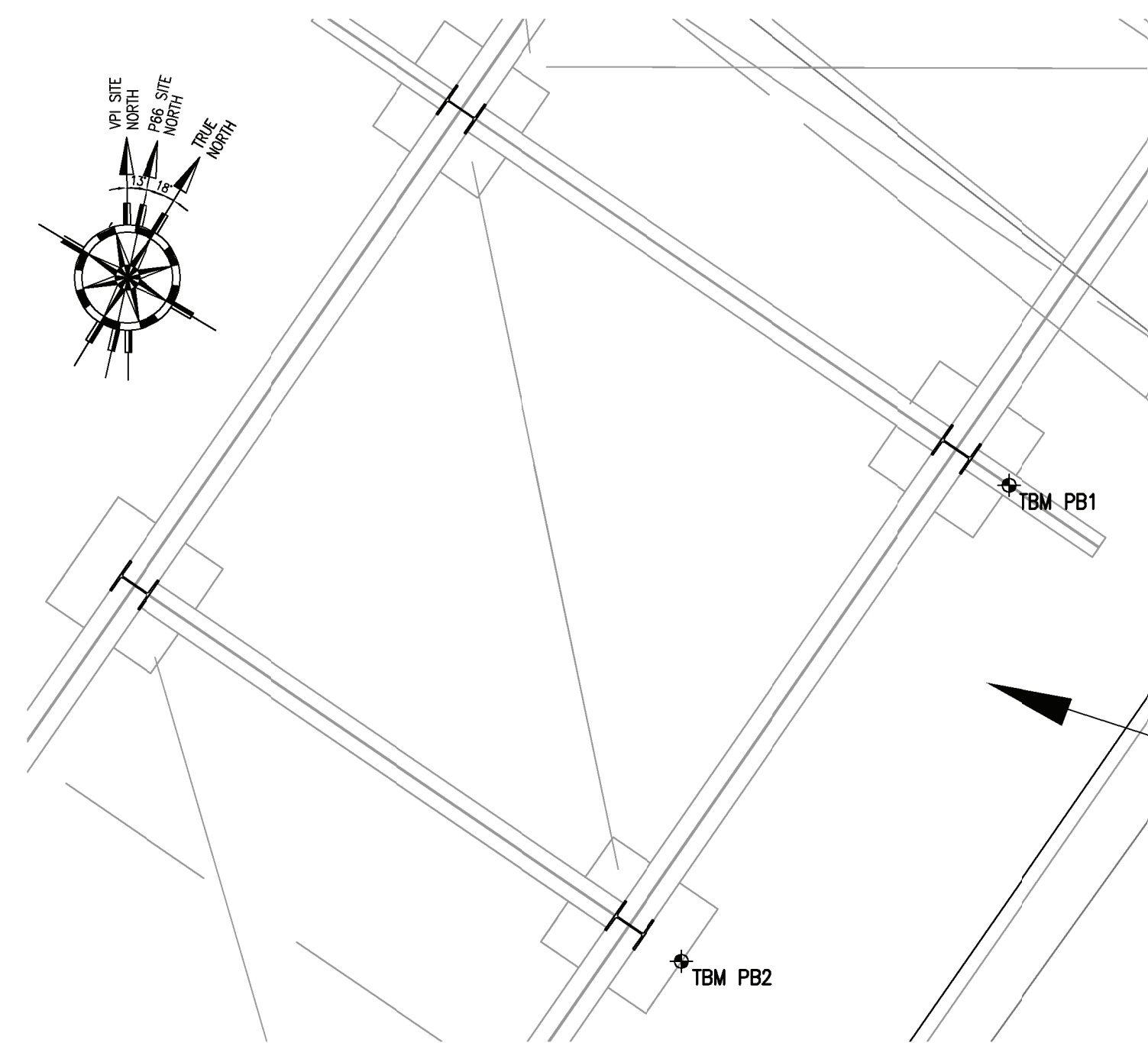
12.24 Section 15 of the CPO Guidance requires acquiring authorities to demonstrate that the implementation of the scheme following the confirmation decision being made is unlikely to be blocked by any physical or legal impediments, including any need for planning permission or other consent or licence. Where permission is yet to be granted, the acquiring authority should demonstrate to the confirming authority that there are no obvious reasons why any required planning permission might be withheld.

- 12.25 The Proposed Development comprises an NSIP for which development consent is required but has not been obtained. Indeed, no application for development consent has been made, nor have any steps required to promote such an application (including in respect of statutory consultation) been taken. Timescales from project inception to grant of development consent orders tend to be at least 36 months.
- 12.26 The absence of any steps to secure development consent for the Proposed Development presents a significant impediment and the Order should not be confirmed on that basis.

13 SUMMARY OF REQUEST

- 13.1 For the reasons outlined above and in the P66 Objection P66 objects to the Order. The making of the Order is ultra vires the enabling powers relied upon by VPI and is contrary to the relevant Government Guidance. Any compelling case in the public interest for the Order is negated by the impediments to the delivery of the scheme identified and the impact of the Order on the P66 CCS Plant and Viking CCS Network – both of which have a clear and explicit compelling case in the public interest.
- 13.2 VPI has failed to take sufficient steps to acquire the Order Land by agreement or pursue alternatives to the Order and sufficient funding has not been evidenced.
- 13.3 P66 therefore requests that the Secretary of State does not confirm the Order and urges VPI to turn its focus to completing the negotiated agreements which would avoid the need for the Order and be consistent with the existing land agreements.
- 13.4 In the alternative, P66 requests that the CPO be modified to exclude the land proposed for temporary use as a laydown area.
- 13.5 VPI has not considered alternative areas for the required laydown space and P66 are open to discussions to lease the land to VPI temporarily (as would have been provided for in the voluntarily negotiated lease for the entire site). Failing this, and as a minimum, the Order should be amended to provide only for rights to use the land for laydown purposes during the construction phase of the Proposed Development.

Appendix 1 – Detailed Site Plan



DETAIL 1
SCALE 1:50

VPI LAYOUT SITE BOUNDARY COORDINATES

REFERENCE POINT	EASTING mm	NORTHING mm
A1	516854.457	416830.899
A2	516600.292	416916.440
A3	516594.212	416903.099
A4	516580.995	416925.883
A5	516662.172	417157.544
A6	516971.728	417141.821
A7	517021.718	417172.202
A8	517038.252	417144.808
A9	517014.913	417130.737
A10	517104.725	416983.058

HARBOUR LAND BOUNDARY COORDINATES

REFERENCE POINT	EASTING mm	NORTHING mm
B1	516850.097	416810.470
B2	516853.193	416819.682
B3	517100.693	416992.957
B4	517105.734	416996.020
B5	517129.328	417003.358
B6	517132.326	416998.140
B7	517111.593	416963.273
B8	516970.776	416877.692
B9	517023.349	416791.187
B10	516982.080	416766.106

AGI LAYOUT SITE BOUNDARY COORDINATES

REFERENCE POINT	EASTING mm	NORTHING mm
AGI-1	516888.555	416813.042
AGI-2	516864.101	416869.723
AGI-3	516981.123	416774.594
AGI-4	517010.085	416794.059

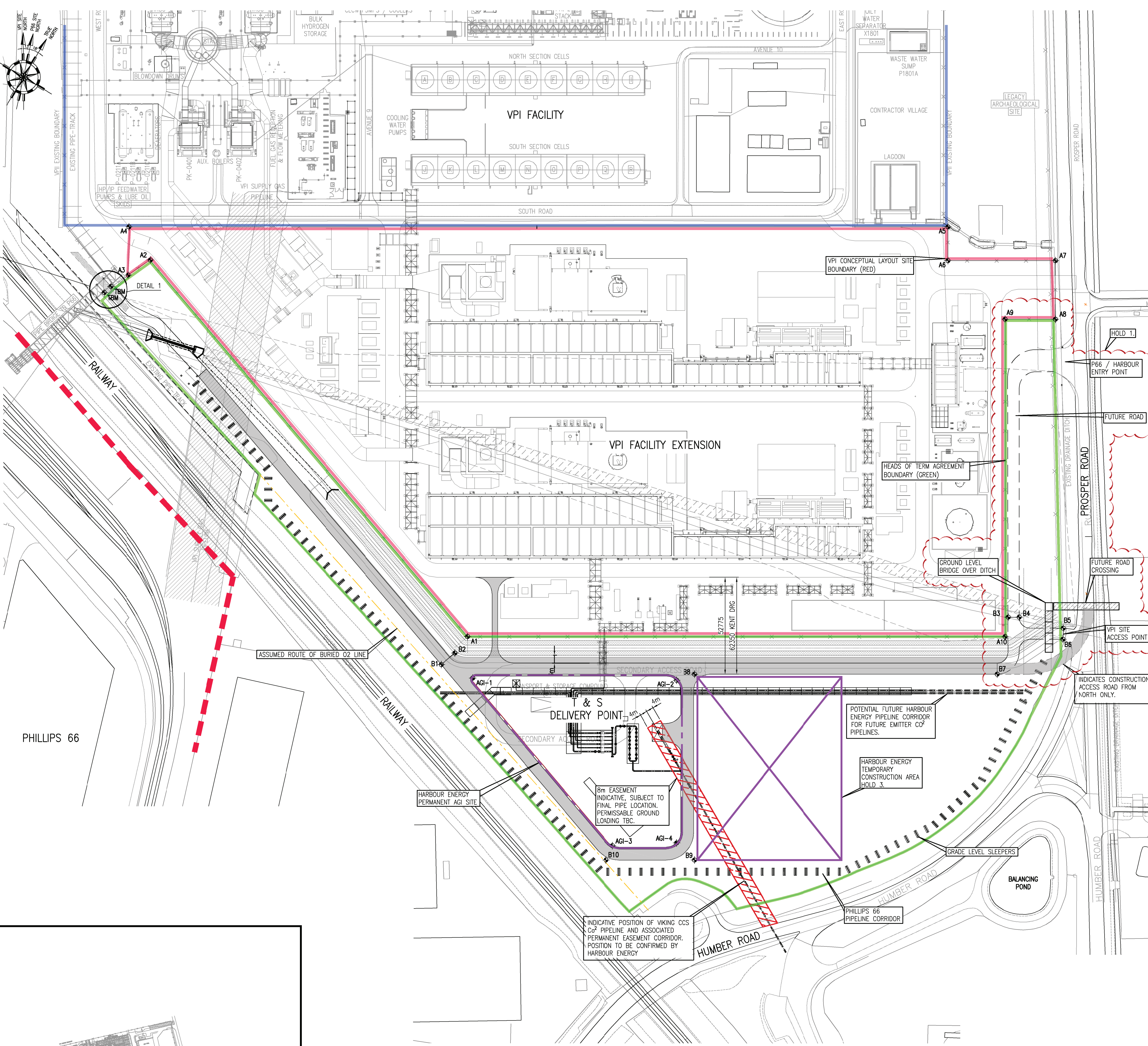
SITE MONUMENT COORDINATES

REFERENCE POINT	EASTING mm	NORTHING mm
A4A	-	-
A4B	-	-

TEMPORARY BENCH MARK (TBM) COORDINATES

REFERENCE POINT	EASTING mm	NORTHING mm
PB1	516589.293	416893.588
PB2	516587.923	416888.806

NOTE:
COORDINATES BASED ON ORDNANCE
SURVEY COORDINATE SYSTEM



VPI SITE PLAN
SCALE 1:1000

NOTE:
SITE BOUNDARY COORDINATES ARE BASED ON ORDNANCE SURVEY
COORDINATE SYSTEM TAKEN FROM MOST RECENT SURVEY DATA.
THIS DATA HAS BEEN RELATED TO HISTORICAL DATA & COORDINATES
OBTAINED SHOULD BE USED FOR REFERENCE PURPOSES ONLY

Notes

LEGEND

THE LAND BOUNDARY CO-ORDINATES QUOTED ON THIS DRAWING ARE
SUBJECT TO A FINAL SURVEY.

VPI NEGOTIATED LEASE

P66 RESERVED LAND FOR IDENTIFIED PROJECTS

HARBOUR ENERGY NEGOTIATED LEASE

TEMPORARY LAYDOWN AREA

ASSUMED ROUTE OF BURIED O2 LINE

VPI MAIN SITE LEASE

PHILLIPS 66 SITE BOUNDARY

HOLDS.

1.

INTERNAL ROADS, KILLINGHOLE DITCH CROSSING, ENTRANCE AND EXIT POSITIONS
FOR BOTH TEMPORARY CONSTRUCTION ACCESS AND PERMANENT ACCESS TO BE
AGREED.

2.

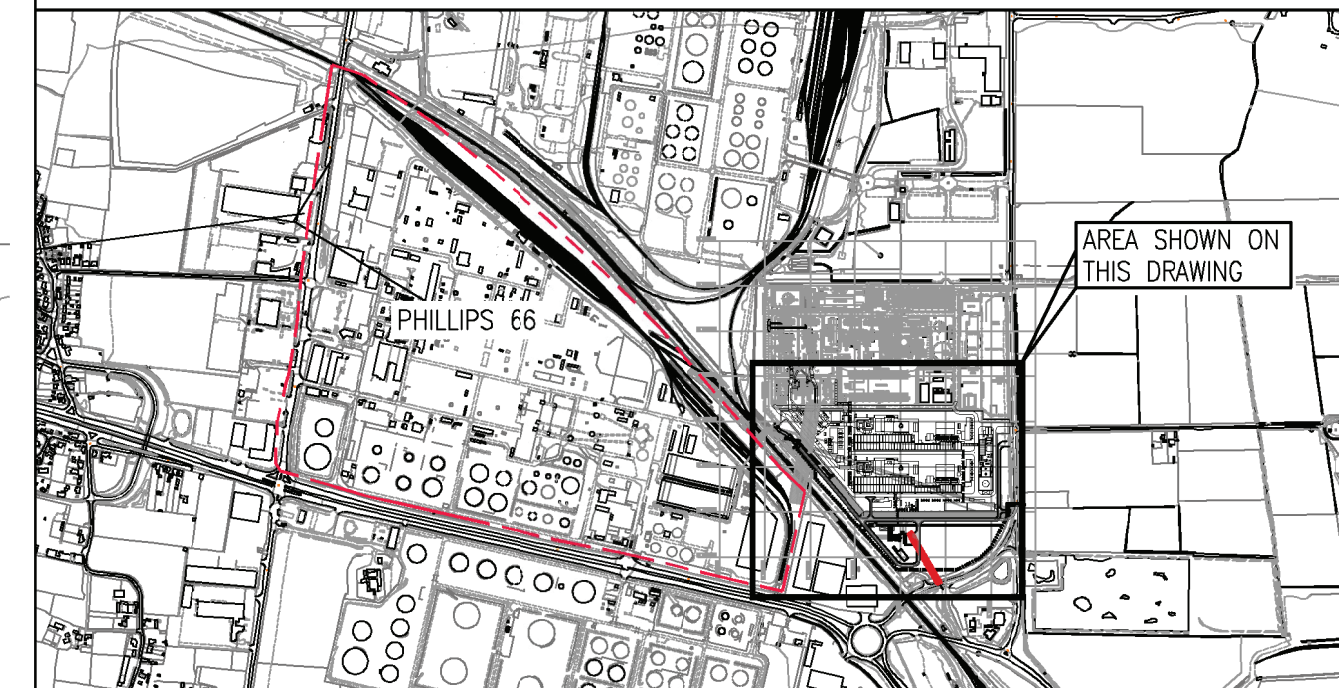
ALIGNMENT WITH PHILLIPS 66 AND VPI SITE COORDINATE SYSTEM.

3.

SIZE OF HARBOUR ENERGY TEMPORARY CONSTRUCTION AREA

Reference Drawings

Equipment On This Drawing



LOCATION PLAN

Rev.	Date	Description	Drn.	Chk.	App'd.
2	17/07/24	UPDATED FOLLOWING P66 REVIEW (LAND NEGOTIATION)	RG	BM	BM
1	08/07/24	ISSUED FOR INFORMATION (LAND NEGOTIATION)	PL	SDP	SDP
0	12/12/23	ISSUED FOR REVIEW (LAND NEGOTIATION)	RG	SDP	SDP

T.I.D. No. .

Tech. Memo/
CMOC No. .

A.S.C. .

Unit
Description .

Discipline CIVIL

Drawn PL

Date DEC

Scale 1:1000

Drg No. .

PHILLIPS
66

Humber Refinery
HUMBERZERO

Title
HUMBER ZERO FCC FEL 2
CIVIL LAYOUT DRAWING
P66 HOR/VPI/HARBOUR INTERFACE
OVERALL SITE MASTERPLAN




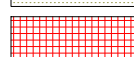



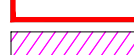


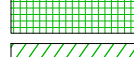






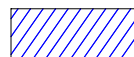


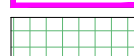


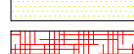
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Cad File Ref. 00-CL-DPP-0013




Appendix 2 – All Land Holdings

Notes	
	Able UK Limited
	Anglian Water Authority
	Associated British Ports
	Barry Fussey
	Benthams Transport
	Bethany Jayne Limited
	Calor Gas
	Centrica Generation Limited
	Phillips 66 Limited
	Darren Harper
	Desmond Gerald Fussey
	E ON UK Ltd
	Elba Securities Limited
	Humber Oil Terminals Trustee Limited
	Humber Sea Terminal Limited
	Humberside Fire Authority
	Innogy Plc
	Kinetica Limited
	National Grid Company Plc
	Southern Energy UK Generation
	Stephen Davies
	Total UK Limited
	PD Ports
	The Oil & Pipelines Agency

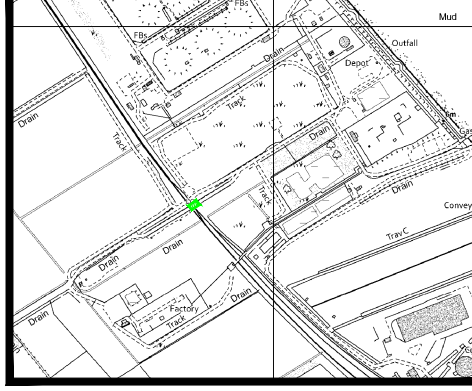
Reference Drawings

Equipment On This Drawing

[illegible]

T.I.D. No.		 Humber Refinery
Equipment		
Area / Shape Code	B	
Unit	GENERAL	
Discipline	M	
Drawn S.GLADWELL Date 29/01/07 Scale NTS		Title LAND OWNERSHIP PLAN HOR AND SURROUNDING AREA
Drg No.	1804/2200/A031	Rev. 2

Appendix 3 – P66 Land Holdings



3.1. THE SUBLET AREA IS SHOWN IN GREEN.

3.2. HOWEVER THE ACTUAL LET AREA IS LIMITED TO THE DEGREE WHEREBY, IT COMPRISES

3.2.1. AS TO THE EDGED GREEN AREA - ALL THE LAND AND AIRSPACE ABOVE IT BUT ONLY THE SUBSOIL AND SUBSTRATA TO A DEPTH OF 50 METRES BELOW ORDNANCE DATUM.

3.2.2. THE HATCHED BLUE AREA IS NOT INCLUDED IN THE SUB LETTING

NOTE
BETWEEN POINTS X AND Y THE H15/B PIPELINE SITE IS SITED
IN LAND OF NETWORK RAIL INFRASTRUCTURE LTD AND THE
SUBJECT OF A LEASE DATED 6th JULY 1992 BETWEEN BRITISH
RAILWAYS BOARD(1) AND HOTT(2) (H15/C)

Rev
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