

Eleanor Croft

Subject: FW: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Ross Corser (He/Him/His)
Senior Associate
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For Pinsent Masons LLP

PA(s) : Victoria Hindley Victoria.Hindley@pinsentmasons.com

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A purpose-led professional services
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From: Beth Grant <Beth.GRANT@pinsentmasons.com>

Sent: 27 November 2024 14:43

To: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>

Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>;
Dean Watson <Dean.Watson@northlincs.gov.uk>; Millie Arden <Millie.Arden@northlincs.gov.uk>

Subject: RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Caroline

I just wanted to follow up on my email below, are you now happy for me to put the proposal of a contribution payable on commencement to P66?

Thanks

Beth

Beth Grant
Senior Associate

☎ +441612348306

📠 +447500920682

For Pinsent Masons LLP

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A purpose-led professional services
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From: Beth Grant

Sent: 22 November 2024 16:42

To: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>

Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>;
Dean Watson <Dean.Watson@northlincs.gov.uk>; Millie Arden <Millie.Arden@northlincs.gov.uk>

Subject: RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Caroline

Thanks for your email and for your continued assistance in this matter.

I have taken instructions and my client has confirmed that they are happy with your proposal of a commencement trigger for payment of the BNG Contribution and for the exclusions from commencement to be limited to those matters you've outlined in your email below.

Are you now happy for me to put this proposal to P66, or do you need to await the discussions between the planning officer and Arup before I do this?

Thanks

Beth

Beth Grant
Senior Associate

☎ +441612348306

📱 +447500920682

For Pinsent Masons LLP

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A purpose-led professional services
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From: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>

Sent: 21 November 2024 18:09

To: Beth Grant <Beth.GRANT@pinsentmasons.com>

Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>;
Dean Watson <Dean.Watson@northlincs.gov.uk>; Millie Arden <Millie.Arden@northlincs.gov.uk>

Subject: [EXTERNAL] RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Beth

I can confirm we have had an opportunity to consider the position and we are looking to get to a workable solution taking into account your comments.

Therefore, we would suggest that payment is made on the Commencement of Development.

However, we only look to add the following terms as NOT triggering Commencement of Development :-

- Site investigation or surveys
- The demolition of any existing buildings or structure
- The provision of security fencing

All other works would trigger Commencement of Development as those works would disturb/ destroy the natural habitat. The definitions section would be amended to reflect this position.

However, this is also subject to the Planning Officer contacting Arup as the conditions and preliminary works will also need to reflect any modifications to suit off site provision .

Hope this assists.

Caroline

From: Beth Grant <Beth.GRANT@pinsentmasons.com>

Sent: 18 November 2024 18:20

To: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>

Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>; Dean Watson <Dean.Watson@northlincs.gov.uk>; Millie Arden <Millie.Arden@northlincs.gov.uk>

Subject: RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

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Hi Caroline

I have now had opportunity to share your proposals with my client.

They are grateful to the Council for seeking to find a workable solution and agree to both the principle of payment of a BNG contribution and to the amount being sought by the Council (as set out in Millie's subsequent email).

Whilst my client understands the Council's position regarding the need for certainty in terms of a trigger for payment, they are concerned about potential misalignment between the proposed 12 month time period and the anticipated FID date for the project which has been held up due to considerable delay in Track 2 from DESNZ.

To address this, I would appreciate if you could confirm whether the Council would be willing to agree to the following:

- Trigger for payment of the contribution to be made no later than 18 months from the date of completion of the Agreement - this would provide an additional 6 month period to enable my client to ensure that matters are progressing along the timeline the UK Government has targeted; and
- Inclusion of specific wording requiring the Council to repay the contribution (or unexpended/committed part thereof) within an agreed timeframe in the event that the permission expires without commencement (and therefore no need for BNG mitigation arises).

Please could you confirm if you are able to agree to the above?

Once we have reached agreement on the principles, I will reach out to P66 to confirm that this approach addresses their concerns and they would therefore be willing to enter into the s106 agreement.

Given that P66 have previously sought to limit the options for BNG mitigation to payment of a contribution I would hope that this approach should be acceptable to them. However, if they are unwilling to agree to the proposals, we may need to reconsider some alternative options.

Many thanks

Beth

Beth Grant
Senior Associate

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For Pinsent Masons LLP

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A purpose-led professional services
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From: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Sent: 14 November 2024 12:32
To: Beth Grant <Beth.GRANT@pinsentmasons.com>
Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>; Dean Watson <Dean.Watson@northlincs.gov.uk>; Millie Arden <Millie.Arden@northlincs.gov.uk>
Subject: [EXTERNAL] RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Beth,

We would look to payment being made within 12 months of the date of the agreement. However, I would anticipate this being the same date as the grant of planning permission.

Hope this helps.

Caroline

From: Beth Grant <Beth.GRANT@pinsentmasons.com>
Sent: 14 November 2024 12:16
To: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>; Dean Watson <Dean.Watson@northlincs.gov.uk>; Millie Arden <Millie.Arden@northlincs.gov.uk>
Subject: RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

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Hi Caroline

Just following up on my email below and before I take instructions, please could you confirm that the obligations in the Agreement would remain conditional upon both grant of planning and commencement having occurred (on the basis that the BNG requirements would not be triggered in the absence of Commencement)?

If so, would the Council be seeking payment within 12 months of Commencement (the date of which the Developer would be required to notify to the Council)?

Kind regards

Beth

Beth Grant
Senior Associate

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For Pinsent Masons LLP

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A purpose-led professional services
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From: Beth Grant
Sent: 14 November 2024 12:08
To: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>;

Dean Watson <Dean.Watson@northlincs.gov.uk>; Millie Arden <Millie.Arden@northlincs.gov.uk>

Subject: RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Caroline

Thank you for your email and for giving this matter your prompt attention.

I will take instructions on the principle of a payment being made in lieu of delivery and will come back to you as quickly as possible. Please could you confirm when you expect to be in a position to provide details of the amount and breakdown of the contribution?

I look forward to hearing from you.

Kind regards

Beth

Beth Grant
Senior Associate

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☎ +447500920682

For Pinsent Masons LLP

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A purpose-led professional services
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From: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>

Sent: 14 November 2024 12:02

To: Beth Grant <Beth.GRANT@pinsentmasons.com>

Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>;

Dean Watson <Dean.Watson@northlincs.gov.uk>; Millie Arden <Millie.Arden@northlincs.gov.uk>

Subject: [EXTERNAL] RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Beth,

Thank you for your email which the planning team and the habitat officer have discussed.

Please note that the planning officer has already been in direct discussion with P66.

We have considered the situation you propose whereby P66 are either not a party or their liability is limited. Unfortunately, this is not a route that we would choose to follow. The LA do need to protect their interest properly and these BNG obligations do run for 30 years.

In relation to the use of a condition it is considered that although an attractive option the problems would then be reoccur when looking to agree the BNG Plan as we would want the land owner to be a party.

We have thought of an alternative solution in the spirit of trying to move this forward to a satisfactory conclusion for all.

We would not normally look for an off site contribution, however, we would be happy to accept one in this case should an agreement be reached on financial cost and trigger point for payment. A further email will be sent out giving a cost break down but it will include a higher rate for part of the habitat than originally agreed and also reflecting the increased responsibility to be undertaken by NLC. In terms of trigger for payment we would look to receiving the full sum promptly. However, instead of it being payable on the signing of the agreement

we would ask for it to be 12 months from the date of the agreement. This 12 month grace period we would use to find the suitable habitat. We would also expect VPI and P66 to both sign up to the agreement. Any division of the sums to be paid would be a matter for VPI and P66 to resolve.

Hopefully, this is a solution that will find favour.

We are happy to discuss.

Kind regards

Caroline

From: Beth Grant <Beth.GRANT@pinsentmasons.com>
Sent: 13 November 2024 07:10
To: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>
Subject: Re: VPI - Humber Zero - S106 [PM-AC.FID5785396]

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Hi Caroline

Thank you for your email confirming the Council's agreement to paragraph 1.5.4 and for your ongoing assistance in trying to reach a mutually agreeable solution on this matter.

Unfortunately, we are still experiencing difficulties in securing P66's approval of the agreement, as current landowner.

As previously noted, P66 are concerned about the potential for residual liability under the Agreement and have sought various amendments to try to address this. My client has sought to alleviate their concerns through further negotiation of the s106 terms with you and by offering to enter into a separate deed of covenant and indemnity with P66, however we appear to have reached an impasse.

As you may be aware, to move matters forward and avoid further delays, my client has commenced the process of compulsorily acquiring the land and rights needed in order to deliver the carbon capture development. In that context, and to allow VPI's project to come forwards, finalising the s106 and obtaining grant of the PP are critical.

Given the difficulties faced by my client in securing P66's approval of the section 106 agreement, I have been considering some potential alternative solutions, on which I would appreciate your views. I have set them out below so that you have the position in writing, but would be very happy to discuss any queries you may have on the phone.

1. Inclusion of further protections for P66 within the s106 agreement

To provide P66 with further protection against liability for potential breaches caused by VPI, I wondered if the Council might agree to the inclusion of a clause along the following lines:

Notwithstanding any other provision in this Agreement, the Parties hereby agree that the Owner (which for the purposes of this clause shall not include its successors in title) shall have no liability under this Deed other than for breaches they have themselves caused.

I haven't yet put this wording to P66 as I first wanted to run it by you. I would however hope that, if agreed, this would be capable of addressing their concerns as it would make clear that they would only be responsible for breaches that they themselves have caused. My client would continue to be bound by the obligations as developer under the Agreement (and could bind its existing leasehold interest).

I appreciate that it is unusual to exclude liability for a particular landowner in this way. However, from a practical perspective, the nature of the proposed carbon capture development is such that only VPI can benefit it – it is designed for and relates solely to VPI's adjacent power station. Therefore, it is highly unlikely that anybody else (including P66) would seek to implement the permission. In the unlikely event that P66

were to commence the development in breach of the BNG obligations, they would remain bound in respect of breaches that they themselves have caused. The risk to the Council in adopting this approach is therefore considered to be low.

2. Exclusion of the requirement for P66 to be a party to a Section 106 Agreement

As an alternative to the above, I also wanted to explore the following potential routes for removing the requirement for P66 to join as a party to the S106 Agreement with you:

a. Secure the BNG obligations by way of condition

As you will be aware, the statutory requirement for BNG (which does not apply to the current application) has been brought into effect through the inclusion of a deemed condition on all relevant consents which requires the submission to and approval of a Biodiversity Gain Plan by the LPA prior to commencement of development.

In circumstances where the biodiversity gain plan provides for BNG to be secured off-site, the statutory provisions require a planning obligation or conservation covenant to be entered into by the owner of the relevant land to secure the delivery of the Biodiversity Gain Plan against the relevant land.

The draft Humber Zero section 106 agreement seeks to secure the ability for the developer to satisfy the BNG obligations through measures that cannot be secured under planning condition (including the potential for both off-site delivery and/or payment of a BNG Contribution).

The position is therefore not dissimilar to that which has been outlined above in respect of the statutory regime in that it would be open to the Council to impose a condition on the planning consent requiring the developer to submit a BNG Plan to the LPA for its approval and to take such steps as are necessary in order to ensure that such BNG Plan is deliverable prior to commencement of the development.

If the approved BNG Plan provides for delivery of off-site BNG and/or payment of a contribution, this could be secured through a s106 agreement/conservation covenant being entered into at the relevant point in time, much in the same way as is done under the mandatory BNG requirements.

b. Continue with the S106 but exclude P66 as a party

It would be possible to proceed with the s106 without P66 as a party on the basis that:

- (i) The area of the site over which VPI has a current leasehold interest (the power station) could be bound under the agreement, and would mean it is a formal planning obligation under s106 from day one;
- (ii) VPI would be 'personally' bound to the Developer obligations under the usual laws of contract through the agreement also being entered into under alternative powers (e.g. s111 LGA 1971 and s1 LA 2011);
- (iii) The S106 could include a restriction on commencement unless and until a confirmatory deed has been entered into which binds the remainder of the development site to the terms of the section 106 agreement (thus preventing VPI from commencing development until the entire site is bound by the BNG obligations);
- (iv) Similarly, a grampian condition could be placed on the planning permission which requires the confirmatory deed to be entered into prior to commencement (this would ensure that P66 could also be enforced against for breach of condition if they failed to comply)

Whilst this would be a departure from the usual approach of ensuring all those with a legal interest in the land are bound by the section 106 agreement, this is nevertheless a workable solution and is an approach that we have experience of using, particularly in relation to infrastructure developments (where developers often do not have an interest in the entire development site) and on schemes where the local planning authority is landowner and therefore unable to be bound into an agreement in the usual way. Furthermore, any potential residual risk to the Council is considered to be further reduced by the nature of the carbon capture development meaning that only VPI would be likely to seek to implement the permission (as already outlined above).

I understand that you will need some time to consider and take instructions on the above proposals and I will continue to try to secure P66's approval to the section 106 Agreement in the meantime.

I would be very happy to have a call to run through the above and any questions you might have if that would assist.

I look forward to hearing from you.

Kind regards

Beth

Beth Grant
Senior Associate

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For Pinsent Masons LLP

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A purpose-led professional services
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From: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Sent: 31 October 2024 17:33
To: Beth Grant <Beth.GRANT@pinsentmasons.com>
Cc: mtt <mtt@vitool.com>; Nick McDonald <Nick.McDonald@pinsentmasons.com>
Subject: [EXTERNAL] RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Beth,

Thank you for the e mail, I can confirm that we are content with the new paragraph 1.5.4.

We will come back to you on the figure.

Thanks

Caroline

From: Beth Grant <Beth.GRANT@pinsentmasons.com>
Sent: 08 October 2024 09:08
To: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Cc: mtt <mtt@vitool.com>; Nick McDonald <Nick.McDonald@pinsentmasons.com>
Subject: RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

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Hi Caroline

Thanks for your email.

Your position regarding the retention of paragraph 1.3.1 is noted.

With regard to the proposed release clause, please could you confirm if the following alternative wording would be agreeable to the council:

1.5.4 that upon the Biodiversity net Gain Units being delivered pursuant to the Biodiversity Net Gain Plan for the Development by any or a combination of the following:

- a. *the creation of new or enhanced habitats at the Site in accordance with paragraph 1.3.1 of this Schedule; or*
- b. *the securing of land by the Developer in accordance with paragraph 1.3.2 of this Schedule and either an agreement or covenant being entered into by the relevant landowner in accordance with paragraph 1.4 of this Schedule; or*
- c. *the purchase of Biodiversity Net Gain Units from third party landowners and/or suppliers in accordance with paragraph 1.3.3 of this Schedule*

the obligations in this Deed shall be satisfied and the Owner and the Developer will thereafter be released from such obligations.

I have added this wording to the attached draft in tracked changes and have also put this to P66, but have noted that it remains subject to the Council's agreement.

With regard to your comments relating to the Biodiversity Offsetting Contribution, I have flagged this to my client, but it seems they were unaware that this figure was being revisited. Do you have any further information that you can share with me on this (e.g. in terms of what the revised figure might be and when we will get confirmation on this).

I look forward to hearing from you.

Kind regards

Beth

Beth Grant
Senior Associate

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**A purpose-led professional services
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From: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Sent: Thursday, October 3, 2024 2:34 PM
To: Beth Grant <Beth.GRANT@pinsentmasons.com>
Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>; mtt <mtt@vitol.com>
Subject: [EXTERNAL] RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Beth

Thanks for the extra time to pick up with clients and discuss the proposals.

In terms of the amendments on the agreement itself we don't have an issue.
However, we don't agree the proposals in your email.

In relation to the first request. The obligations under this deed would be satisfied if the provisions of Schedule 1.4 and the proviso in Schedule 1.3 were met. But this excludes the on site option. Therefore if the clause were to include all of 1.3 as well as the proviso and clause 1.4 we would be content with that position.

In relation to the second request, it is for the Council and Developer to agree a Bio Diversity Net Gain Plan under clause 1.2. This Plan will identify the delivery mechanism for the required biodiversity. This may include a combination of on site, off site and Biodiversity Offsetting Contribution. Currently, I am advised that there

ongoing discussion of some units to be on site. Therefore, the removal of that clause would not support the current position.

Following the discussions between our respective clients, I understand that there will be a further reconsideration of the quoted figure per unit in the Biodiversity Offsetting Contribution definition . This follows further Defra advice.

Kind regards

Caroline

From: Beth Grant <Beth.GRANT@pinsentmasons.com>
Sent: Tuesday, September 24, 2024 2:21 PM
To: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>; mtt <mtt@vitol.com>
Subject: RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

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Hi Caroline

Thanks for coming back to me so quickly.

Please see latest draft attached. In addition to the changes being proposed by P66 (which I haven't yet incorporated into the document, pending your agreement of the same), I have picked up on some minor typos which are shown in tracked changes in the attached.

I look forward to hearing from you.

Kind regards

Beth

Beth Grant
Senior Associate

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A purpose-led professional services
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From: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Sent: Tuesday, September 24, 2024 1:23 PM
To: Beth Grant <Beth.GRANT@pinsentmasons.com>
Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>
Subject: [EXTERNAL] RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Beth,

Good to hear from you.

It has been a while and to ensure version control , please could you send me a copy of the draft deed you are considering. I can then take instructions

Thanks

Caroline

From: Beth Grant <Beth.GRANT@pinsentmasons.com>
Sent: Tuesday, September 24, 2024 11:42 AM
To: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>
Subject: RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

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Hi Caroline

I hope you are well.

We have been engaged in ongoing discussions with the freehold owner of the Property to try to address their concerns regarding residual liability under the section 106 agreement.

In order to address this, they have asked whether the following amendments to the S106 Agreement could be agreed:

1. The inclusion of an additional Clause as follows:

The Council confirm that upon either an agreement or covenant being entered into by the relevant landowner under the provisions of paragraphs 1.4 of Schedule 2 or payment of the Biodiversity Offsetting Contribution under the proviso to paragraph 1.3 of Schedule 2 the obligations in this Deed shall be satisfied and the Owner and the Developer will thereafter be released from such obligations.

2. They have also asked if the Council is satisfied that delivery of onsite BNG will not be possible, and if so, whether the Council would agree to the deletion of paragraph 1.3.1 of Schedule 2?

If you could confirm whether the above amendments are agreeable, that would be much appreciated.

I look forward to hearing from you.

Kind regards

Beth

Beth Grant
Senior Associate

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A purpose-led professional services
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From: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Sent: Wednesday, July 3, 2024 9:51 AM
To: Beth Grant <Beth.GRANT@pinsentmasons.com>
Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>
Subject: [EXTERNAL] RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Beth,

Thank you for the quick reply and up date.

Look forward to hearing from you.

Caroline

From: Beth Grant <Beth.GRANT@pinsentmasons.com>
Sent: Wednesday, July 3, 2024 9:47 AM
To: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>
Subject: RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Caroline

Apologies for the delay. The agreement is currently with the freeholder who is taking external legal advice. I will be in touch as soon as there is a further update.

Kind regards

Beth

Beth Grant
Senior Associate

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A purpose-led professional services
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From: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Sent: Wednesday, July 3, 2024 9:39 AM
To: Beth Grant <Beth.GRANT@pinsentmasons.com>
Subject: [EXTERNAL] FW: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Beth,

Is there an up date on this one.

Thanks

Caroline

From: Caroline Emerson
Sent: Monday, June 17, 2024 5:45 PM

To: Beth Grant <Beth.GRANT@pinsentmasons.com>; Nick McDonald <Nick.McDonald@pinsentmasons.com>
Cc: Millie Arden <Millie.Arden@northlincs.gov.uk>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>
Subject: RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Beth

Thank you for the e mail.

I can confirm that we are agreeable to the document.

The Biodiversity Contribution can be identified as £22,000.00. However, this figure would also be subject to an RPI uplift.

I can agree your position on the substation as I assume it is a statutory undertaker.

Kind regards

Caroline

From: Beth Grant <Beth.GRANT@pinsentmasons.com>

Sent: Monday, June 17, 2024 9:14 AM

To: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>; Nick McDonald <Nick.McDonald@pinsentmasons.com>

Cc: Millie Arden <Millie.Arden@northlincs.gov.uk>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>

Subject: RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Caroline

I hope you had a good weekend.

Just following up on my email below, are you now in a position to come back to me with approval of the draft agreement?

I also wanted to pick up with you on title. I understand that it has previously been discussed and agreed that NGT (who have an interest in a small substation within the existing CHP at the Site) do not need to be a party to the agreement on the basis that their interest is de minimis - please could you confirm?

I look forward to hearing from you.

Kind regards

Beth

Beth Grant
Senior Associate

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A purpose-led professional services
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From: Beth Grant

Sent: Thursday, June 13, 2024 10:02 AM

To: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>; Nick McDonald <Nick.McDonald@pinsentmasons.com>

Cc: Millie Arden <Millie.Arden@northlincs.gov.uk>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>
Subject: RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Thanks Caroline

The council's position is understood. I have amended the Agreement to reflect your responses on both points and an updated draft is attached, together with a comparison against the previous version.

Please could you confirm this is agreed and also come back to me on the point regarding the need to define the Biodiversity Contribution more clearly – does the council have a fixed amount or an amount per unit that could be inserted here?

If you are able to come back to me on this ASAP that would be very much appreciated.

Many thanks

Beth

Beth Grant
Senior Associate

☎ +441612348306

📱 +447500920682

For Pinsent Masons LLP

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From: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Sent: Wednesday, June 12, 2024 9:50 AM
To: Beth Grant <Beth.GRANT@pinsentmasons.com>; Nick McDonald <Nick.McDonald@pinsentmasons.com>
Cc: Millie Arden <Millie.Arden@northlincs.gov.uk>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>
Subject: [EXTERNAL] RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Morning,

Thank you for your e mails.

I have now got instructions from my client. Our approach is as follows:-

1. The hierarchy remains as it is and as it was agreed originally , with the emphasis on the Developer providing some if not all BNG units.
2. The Council suggests that if on site or off site on either their land or with other land owners that they are aware of that could provide this facility is not available, then the applicant could engage in conversations with GIGL (contact - tsmalley@lincstrust.co.uk) or the Environmental Farmers Group ([Home - Environmental Farmers Group](#)) to purchase BNG units from a third party .

Hope this sets out the position of the Authority.

Kind regard

Caroline

From: Beth Grant <Beth.GRANT@pinsentmasons.com>
Sent: Tuesday, June 11, 2024 12:27 PM
To: Nick McDonald <Nick.McDonald@pinsentmasons.com>; Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Cc: Millie Arden <Millie.Arden@northlincs.gov.uk>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>
Subject: RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Caroline


I hope you are well.


I'm just following up on Nick's email below. Are you now in a position to come back to us on the BNG point and whether the Council will accept payment of a BNG contribution in place of the BNG hierarchy?

Thanks

Beth

Beth Grant
Senior Associate

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From: Nick McDonald <Nick.McDonald@pinsentmasons.com>
Sent: Thursday, June 6, 2024 2:23 PM
To: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>; Beth Grant <Beth.GRANT@pinsentmasons.com>
Cc: Millie Arden <Millie.Arden@northlincs.gov.uk>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>
Subject: RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]


Hi Caroline


Thank you for coming back to us on the parties/liability point, the LPA's position is understood.

Do you know when you'll be able to revert on the BNG contribution point please? We'd like to be able to pick up with P66 on both at the same time, given they are linked points for them.

Kind regards
Nick

Nick McDonald (He/Him/His)
Partner

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 +44 7771 506 381



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From: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Sent: Wednesday, June 5, 2024 10:27 AM
To: Beth Grant <Beth.GRANT@pinsentmasons.com>
Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>; Millie Arden <Millie.Arden@northlincs.gov.uk>; Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>
Subject: [EXTERNAL] RE: VPI - Humber Zero - S106 [PM-AC.FID5785396]

Hi Beth,

I have spoken to my client on the points that you raise. They are to discuss point 2 and I will come back to you as soon as possible .

In relation to the point 1, we will look to include both the freeholder and leaseholder in the agreement as responsible to meet the obligations in full . However, if the leaseholder and freeholder wish to enter into their own side agreement to agree liability then that is a matter for themselves.

Hope this helps as to a way forward.

Caroline

From: Beth Grant <Beth.GRANT@pinsentmasons.com>
Sent: Tuesday, May 21, 2024 10:24 AM
To: Caroline Emerson <Caroline.Emerson@northlincs.gov.uk>
Cc: Nick McDonald <Nick.McDonald@pinsentmasons.com>
Subject: VPI - Humber Zero - S106 [PM-AC.FID5785396]

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Dear Caroline

By way of introduction, I am a colleague of Fiona Ross working in the firm's planning team.

I have been asked to take forward the above Section 106 agreement on behalf of VPI and for the past few months I have been engaged in discussions with the Site's freehold owner, P66 to try to agree the final form of agreement in order that this can be completed and the planning permission issued.

Unfortunately, we appear to have reached an impasse with P66. They are concerned about their potential liability under the agreement and have flagged the following changes that they would wish to see in order to enter into the agreement:

1. They would like to include provisions whereby they will be released from liability under the agreement upon VPI taking its leasehold interest over the remainder of the Site (as you will be aware from your title review, VPI currently has a lease over its existing CHP plant and is seeking an option for lease over the part of the site where the main capture plant will be built);
2. They are concerned by the inclusion of the BNG hierarchy and would instead wish for the agreement to provide for payment of a BNG contribution at the Developer's discretion.

I appreciate that there have been discussions previously regarding the BNG hierarchy point in particular, however we appear to have reached a stage where we are unable to move matters forward without clear confirmation from the Council as to whether it is willing to accept one or both of the above points and, where not agreed, the reasons why.

Please let me know if it would be helpful to discuss at all.

I look forward to hearing from you.

Kind regards

Beth

Beth Grant

Senior Associate

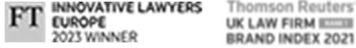
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