

The Caythorpe Gas Storage Limited (Caythorpe Gas Storage Facility) (Supplementary) Compulsory Purchase Order 2010

Statement of Reasons

5 October 2010

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1 Introductions and Definitions

1.1 Caythorpe Gas Storage Limited (the **Company**) is a gas transporter pursuant to section 7 of the Gas Act 1986. On 5 October 2010 the Company made The Caythorpe Gas Storage Limited (Caythorpe Gas Storage Facility) (Supplementary) Compulsory Purchase Order 2010 (the **CPO**)

1.2 This is the Company's Statement of Reasons for making the CPO. This is a non-statutory Statement provided in compliance with paragraphs 35 and 36 and Appendix R of ODPM Circular 06/2004 *Compulsory Purchase and the Crichef Down Rules*.

1.3 Definitions used in this Statement shall have the following meanings:-

1965 Act	The Gas Act 1965
1986 Act	The Gas Act 1986
1998 Act	The Human Rights Act 1998
CPO	The Caythorpe Gas Storage Limited (Caythorpe Gas Storage Facility) (Supplementary) Compulsory Purchase Order 2010
Convention	The European Convention on Human Rights
Order Land	The land comprised in the CPO
Plot	One of the plots comprised in the Order Land
Scheme	the storage of natural gas and related works as more particularly described in paragraph 5

2 Background

The Caythorpe gas field

2.1 Caythorpe is a natural gas field located in the Rudston area of Yorkshire, west of Bridlington, comprising two subsurface reservoirs.

2.2 The two reservoir units are the Kirkham Abbey Formation at a depth of approximately 1700 metres and the Rotliegendes Formation at a depth of approximately 1800 metres below the surface of the land, both of which are now depleted. The total potential gas storage volume is estimated to be 289 million sm³. Underground gas was first discovered at Caythorpe by exploratory drilling in 1987. Planning permission and DTI approval for gas production were given in 1992. Although two wells were drilled at this site referred to as C-1 and C-2, it was only the

latter that was completed as a gas producer. An electricity generating facility was later developed at the site by Independent Energy Limited and subsequently operated by one of the Warwick Energy group of companies.

The Caythorpe gas storage project

- 2.3 The Company is planning to convert the depleted field into a gas storage facility, which will import dry gas from the National Transmission System (**NTS**) during periods of low demand and return the gas to the NTS during periods of high demand. The storage facility will have rapid recycling capability with fast withdrawal and injection rates, and fast turnaround.
- 2.4 The Company originally promoted a gas storage facility at Caythorpe in November 2005 when a planning application was submitted. At the time the Company was owned as part of the Warwick Energy Group but was sold to Centrica Storage Holdings Limited in September 2008. The Scheme will be located within the depleted Caythorpe gas field. The Scheme involves the re-injection of gas to its original pressure into the depleted reservoirs and use as a gas storage facility.

Existing consents

- 2.5 The Scheme benefits from the existing consents:
- 2.5.1 Approval of revised Field Development Plan for gas storage in May 2008;
- 2.5.2 Planning permission granted on appeal in February 2008 for the:-
"extension and development of the existing Caythorpe power generation facility, the construction of a wellsite and drilling of up to 6 boreholes to access an unidentified gas-bearing geological structure, and the construction of a connection facility into the Transco National Transmission System together with associated inter-connecting pipelines"
- 2.5.3 Hazardous substances consent granted on appeal in February 2008 for the *"storage of 217,077 tonnes of natural gas (methane) in the existing underground gas reservoir and in new flowline, process plant and network"*; and
- 2.5.4 Storage Authorisation Order (**SAO**) granted in February 2008 for the *"storage of un-odorised natural gas in the Caythorpe Gas Field"*.
- 2.5.5 The Company was also awarded a consent in August 2009 under section 20 of the 1965 Act to enter the land within the SAO boundary to undertake seismic investigations. Further detail about this is set out below.

The original CPO

2.6 In addition to the consents referred to above the Secretary of State confirmed on 9 April 2008 a Compulsory Purchase Order promoted by the Company. This was the Caythorpe Gas Storage Limited (Caythorpe Gas Storage Facility) Compulsory Purchase Order 2006 (**2006 Order**) made pursuant to Sections 12 and 13 of the 1965 Act and Section 9 and Schedule 3 of the 1986 Act. The stated purposes were to permit:

- 2.6.1 the storage of natural gas in underground porous strata;
- 2.6.2 the extension and development of the existing Caythorpe power generating facility for compression of natural gas for storage in and extraction from the underground porous strata;
- 2.6.3 the construction of a remote well site and drilling of six bore holes;
- 2.6.4 the construction of a connection facility and associated access lane; and
- 2.6.5 the laying of pipelines and cables to facilitate the Gas Storage project.

Agreements to purchase the interests and/or rights in land

2.7 The Company has acquired some of the interests needed for the Scheme by agreement. At the time that the 2006 Order was promoted not all of the interests required had been acquired by agreement.

Implementation of the 2006 Order

2.8 On 20 August 2010 the Company executed 2 General Vesting Declarations to acquire compulsorily rights required to store gas beneath the surface comprised in the 2006 Order. The interests will vest in the Company on 14 October 2010. The Company will have acquired all outstanding interests save for those included within this CPO.

The need for a second CPO

2.9 The 2006 Order did not include all of the interests required. It was defective because:

- 2.9.1 Not all of the new rights that are required for the drilling and completion of the new boreholes and installation of monitoring equipment within the existing boreholes have been authorised to be acquired;
- 2.9.2 The description of the rights required for the pipeline needs to be more clearly defined; and
- 2.9.3 The 2006 Order did not include rights to store gas beneath the B1253 Rudston Road

- 2.10 As a result it has been necessary to promote a supplementary Compulsory Purchase Order to enable the Scheme to be fully implemented. The Company's reasons for doing so are set out in this Statement of Reasons.

3 Description of the Order Land

- 3.1 The Order Land is located on the south eastern edge of the Yorkshire Wolds, in the parishes of Rudston, Boynton and Burton Agnes, and although varied in nature is characterised by intensive farmland, including mixed cereal crops and grazed meadow land. There is in addition to this the former Caythorpe power generating facility (**PGF**) which has been demolished and removed (except for the wellheads of existing wells C-1 and C-2) and its associated underground pipelines which run south west from the Caythorpe PGF for around 4.5 kilometres to an above ground installation (**AGI**) at Woldgate where it connects into the regional transmission system. The pipeline is decommissioned but remains in the ground, whilst the AGI is currently being removed by its owner, North Eastern Gas Networks. There is still a live gas well at the PGF that penetrates the Caythorpe Gas Field which is referred to as C-2. This will be used as a monitoring well as part of the Scheme.
- 3.2 Much of the land is agricultural, used primarily for arable farming and grazing. There is also the Carr Plantation which is an area of mixed woodland in the grounds of Thorpe Hall, a three-storey building with a terrace on its south side.
- 3.3 Most of the interests being acquired are subsurface. As a result the interests to be acquired beneath the surface are confined to freeholders and any persons who have an interest in the freehold such as mortgagees. The Company has secured by agreement the land required for the well site where drilling will commence from the surface downwards. It was not therefore necessary to include this land in this CPO but its location is shown in Figure 1 **Appendix 1**. The drilling will deviate outside the extent of this land, below surface level once it reaches a depth of at least 152.4 metres. This means that where drilling rights for the new wells are included in this CPO they will not be required at any depth shallower than 152.4 metres below the surface. In addition to the drilling rights for the new boreholes, this CPO also seeks to secure the rights for the two existing wells, C-1 and C-2, especially the latter where it is the intention to install equipment to monitor the pressure of the gas contained within the two reservoirs. This CPO also includes a right to store gas beneath the public highway which was omitted from the 2006 Order.
- 3.4 In addition to this, rights are included to lay pipelines to connect the gas processing facility with the Above Ground Installation. This is a corridor of up to 28 metres wide. At this stage the CPO plots for these areas are 56 metres wide but the location of the pipeline relative to the corridor has not been finalised within this area. As an example it may be necessary for the corridor to sit wholly to one side of the pipeline whereas elsewhere the pipeline may be located centrally within it. This can only be finalised once a contractor has been appointed and the method of working

determined by them. As a result the Company will provide an undertaking only to implement any CPO within a corridor 28 metres wide within the CPO boundary. There will be surface works to install pipelines and cabling which will then be covered and the arable level returned to its original use.

4 The Enabling Power

4.1 The CPO has been promoted by the Company in order to provide a Gas Storage Facility. The 1965 Act contains the process for the authorisation of the storage by gas transporters of gas underground in natural porous strata. The Company is a gas transporter pursuant to Section 7 of the 1986 Act. The licence was granted on 29 July 2005 under reference LIC/PGT/186.

4.2 Sections 12 and 13 of the 1965 Act provide that a gas transporter may be authorised by the exercise of its powers in Schedule 3 of the 1986 Act to purchase compulsorily:

4.2.1 an exclusive right to store gas in an underground gas storage;

4.2.2 any land which is the site of any well, borehole or shaft for the purpose of making use of the same for the development and use of the underground gas storage; or acquiring any existing well, borehole or shaft if it extends below the storage authorisation order to stop it up or prevent its use by others; and

4.2.3 a right of way to access land within the storage area (such rights being implied by law to include rights to construct and maintain gates, stiles and bridges) and if such right includes a right with vehicles, the right to transport materials, plant and apparatus in the vehicle.

4.3 Section 9 of the 1986 Act also applies Schedule 3 of that Act which sets out the powers of the Secretary of State, after consultation with Ofgem, to authorise the compulsory purchase by a gas transporter of land as well as existing rights and new rights. That power includes the right to acquire new rights or land for the laying of pipelines.

5 Purpose in seeking to Acquire the Order Land and Proposals

5.1 As is noted in section 2.5 above the Scheme already benefits from a number of consents. The 2006 Order which was promoted prior to the Company being owned by Centrica Storage Holdings Limited does not include all of the rights that it is necessary to acquire for the purposes of implementing the Scheme. The Company requires the land and interests contained within this CPO to enable it to fully implement the Scheme.

5.2 The Company is planning to convert the depleted gas field into a gas storage facility, which will import dry gas from the National Transmission System (**NTS**) during periods of low demand and return the gas to the NTS during periods of high demand.

The storage facility will have rapid recycling capability with fast withdrawal and injection rates, and fast turnaround.

- 5.3 A 20 inch welded stainless steel pipeline 1.2 km in length will connect the wellsite to the gas plant, where the gas will be compressed either for injection into the reservoir or delivery to the NTS via a 24 inch welded steel import/export pipeline 4.4 km in length, which will connect at the AGI. The 20 inch flowline will follow the route of the access road to the wellsite and will be laid with electricity and fibre optic cables, and a small bore methanol pipeline. The 24 inch import/export pipeline will replace the existing decommissioned 6 inch pipeline, which will be removed and will be laid with fibre optic telecommunication cables.
- 5.4 In May 2009, the Company was granted a Direction by the Secretary of State for Energy and Climate Change under section 20 of and schedule 6 paragraph 1 to the 1965 Act to carry out prospecting over land in the Caythorpe area, for the purpose of proving the Caythorpe field for underground gas storage. Following receipt of this Direction, 3D seismic data of the field was acquired in Q4 2009 to verify the size and extent of the reservoirs. The interpretation of this data resulted in the re-evaluation of the extent of the land required for storage and extent of the area required for development well drilling.
- 5.5 It is considered that the original gas-in-place for both reservoirs was in the region of 289 million cubic metres (**Mcm**) although once the reservoirs have been recharged, the working volume will be less than this. The new well site will have up to six slots for drilling the new development wells. The original field was developed with one producing well through a gas plant near the village of Boynton. It is planned that this original Caythorpe-2 producing well will be converted to an observation well for monitoring field reservoir pressure.
- 5.6 The Company was previously owned by Warwick Gas Stores Limited which planned the gas storage scheme and obtained all the major planning consents and licenses on behalf of the Company before it was acquired in 2008 by Centrica Storage Holdings Limited. Since then, Centrica Storage Holdings Limited has developed the project from feasibility to preliminary engineering design. Whilst the Company announced in July 2010 that the final investment decision had been delayed pending the outcome of Ofgem's decision on the Third Party Access exemption, the regulatory position has been clarified and the Company is in a position to proceed with the Scheme. Preparatory work is continuing. Over the coming months the early civil works will commence which will include the construction of the access road to the wellsite and the bridge crossing of the Gypsy Race. The final investment decision will be made conditional on a confirmed CPO.
- 5.7 It is planned to deliver 1st gas in Q1 2013, which means commissioning and recharging the reservoir in Q4 2012. To meet this schedule, it is planned to commence the 12 month drilling programme in September 2011 following a 9-12

month lead time to procure materials and equipment. It is planned to use the next 3 months to finalise landowner agreements in order to commence project construction in Q1 2011 (although some site enabling works have already commenced and will be continue through Q4 2010). This timetable is dependent upon the confirmed CPO.

- 5.8 The extent of the subsurface area required for both gas storage and drilling of new boreholes, has now been more clearly defined following the interpretation of the 3D seismic survey data which was obtained in Q4 2009. This has the result of reducing the subsurface area required for the Scheme to less than that authorised for the compulsory acquisition of rights to store gas contained within the 2006 Order albeit the Gas Storage Authorisation Order boundary remains unchanged and that order is still in force (Figure 1).
- 5.9 Whilst the 2006 Order listed the acquisition of rights to drill boreholes as a purpose, these were not scheduled in the 2006 Order and so cannot be exercised by the Company. The only differences between the CPO and the 2006 Order are to correct the deficiencies referred to in paragraph 2.9 and in doing so more closely refine the area of rights authorised to be acquired for the drilling of boreholes.
- 5.10 All of the elements to correct deficiencies in the 2006 Order referred to above mean that the Company will be able to fully implement the Scheme. Given that the Company as a gas transporter may be authorised by the Secretary of State to acquire land or new rights, the exercise of powers of compulsory purchase fit within the Company's own purposes which is to develop a gas storage facility.
- 5.11 The CPO seeks to acquire land for the following purposes:
- 5.11.1 storage of natural gas beneath the B1253 Rudston Road only in underground porous strata known as the Kirkham Abbey Formation and the Rotliegendes Group (Leman Formation) within and forming part of the area authorised by the Caythorpe Gas Field Storage Authorisation Order 2008;
 - 5.11.2 drilling installation use and maintenance of up to 6 new boreholes and 2 existing boreholes in connection with the development and operational activity of the underground gas storage facility including the installation of monitoring equipment into the existing Caythorpe 2 well;
 - 5.11.3 laying retaining operating and maintaining associated interconnecting underground pipelines, access roads, electricity cables other service media and necessary equipment in order to facilitate the proposed development of the Caythorpe Gas Storage Facility; and
 - 5.11.4 The construction of an Above Ground Installation for the connection into the National Transmission System including associated landscaping works.

Proposed drilling area

- 5.12 The area of land under which directional drilling is needed to fully access the stored gas is defined in accordance to the subsurface geology. Although the Caythorpe gas storage area is contained within Licence Block PL234, the land required for directional drilling is smaller than this (Figure 1). Figure 1 shows land required for drilling as comprised in the CPO (coloured green) and the remainder which has been secured by agreement (coloured pink). The wells will be drilled from the new Caythorpe wellsite, located approximately 1.1 km southwest of the proposed gas processing facility (formerly the power generating facility) where the wellheads of the two existing wells are also located.
- 5.13 The new wellsite contains space for the drilling of up to six new boreholes. Initially these will be drilled vertically down to at least 152.4m below the surface of the land. At depths below this, the wells will start to deviate from the vertical so that they can be redirected to reach the required depth of the reservoirs. In order to optimise well productivity, the wells will have to be deviated or inclined by at least 45 degrees from vertical as they enter the reservoir. Figure 2 illustrates the three dimensional aspect of the form that some of the development wells may take. In detail, the wellpath trajectories will be designed and optimised to adhere to safe drilling practices.
- 5.14 In addition to the rights required for the directional drilling of the new boreholes, it is necessary to acquire the rights for the use and maintenance of these wells in connection with the development and operational activity of the underground gas storage facility. Operations associated with the facility will require the installation of equipment within the boreholes to allow testing and inspection, particularly of the two reservoirs. These rights will need to be extended to the existing boreholes, C-1 and particularly C-2, where it is the intention to install equipment to monitor the pressure of the gas contained within the two reservoirs.

Land affected by the drilling

- 5.15 The land required for directional drilling is mainly owned by three landowners, namely Sir Ian MacDonald and a related Trust (Figure 1), WD Sellers and Sons and MM Sellers. Agreement has been reached with WD Sellers & Sons, James Morley and MM Sellers Limited already and interests have been acquired with these landowners to proceed with the drilling.

Land required to store gas beneath B1253 Rudston Road

- 5.16 The 2006 Order did not include rights to store gas beneath the B1253 Rudston Road and therefore the intention of this CPO is to make sure this small area of land is fully included (Figure 1).

Land required for pipelines

- 5.17 The schedule to the CPO sets out in detail the new rights required. In summary these include all rights required to lay, render operational and maintain the gas pipeline and cables based on stripping the topsoil and reinstating as near as reasonably practicable to that existing prior to entry; the removal of vegetation, temporary fencing and stockpiling of soils; removal and replacement of boundary fences and hedgerows, and installation of marker posts; to undertake soils and geotechnical surveys; to pass over the land with vehicles and machinery, and to use within a 28 metre working corridor; to periodically inspect the 6.71 metre easement corridor and prevent new construction within its limits; to carry out non-intrusive environmental surveys beyond the easement corridor; all rights of entry associated with these rights and a right of support. In addition to this some land is also required for working space during construction. These rights will all be exercised through agricultural land from the Gas Processing Facility to the Above Ground Installation.
- 5.18 Part of the land includes the placing of pipelines beneath the highway. This is all in unregistered ownership. There is a rebuttable presumption that the adjoining landowner owns the sub surface beneath the highway up to the mid point. Whilst agreement has been reached with some adjoining landowners to grant such interests that they have beneath the highway, they can only be classed as reputed owners as they have not been able to prove title. They are therefore included within the CPO as they are required to be scheduled. The inclusion of these plots is to ensure that any unknown ownership is covered. The Company would not implement the CPO against parties in so far as the necessary rights have been secured by agreement.

Land required for construction compound

- 5.19 Whilst the construction compound is only needed on a temporary basis the legislation does not allow temporary acquisition. In the event that terms cannot be agreed for temporary acquisition the Company will take possession of the land and, following its use as a construction compound, will offer it back at nil consideration to the former owners restoring the land in so far as is reasonably practicable to how it was prior to commencement of the construction works.

Land required for the Above Ground Installation

- 5.20 The Company requires this for a freehold acquisition. It has already secured an option over this plot but it is in the process of being renegotiated. Unfortunately terms have not yet been agreed but in the event that they are the Company would not seek to implement the CPO for this plot. This is consistent with the approach for the other plots where agreement can be reached.

6 Justification for Compulsory Purchase

- 6.1 The Caythorpe gas field is a depleted gas reservoir, which the Company is proposing to develop into a gas storage facility requiring the drilling of six new wells into two

natural porous strata beneath the surface. The Company was granted a Storage Authorisation Order in February 2008 by the Secretary of State under Section 4 of the 1965 Act. At the time of the application, although the surface location of the boreholes were known and identified in the submission (being the well site), the proposed well paths were not, as they had not been defined at that time. The well trajectory paths have since been developed and will cross beneath land owned by 3 landowners. The Company already has agreements in place with two of these landowners and is seeking to negotiate access rights with the third landowner, with whom it is seeking to enter into a private agreement on the basis of a fair and reasonable compensation. It has not been possible to agree terms, so far, with the third landowner.

Need for the Scheme

6.2 The Caythorpe Gas Storage Project was the subject of a Public Inquiry in April and May 2007. The consideration of the need for the development was a key matter for that Inquiry. Following consideration of the Inspector's Report the project was approved in February 2008 by the Secretary of State for Communities and Local Government and the Secretary of State for Business, Enterprise and Regulatory Reform¹, acting jointly. In reaching their decision to approve the gas storage project at Caythorpe the Secretaries of State concluded that:

6.2.1 "...it is common ground that there is need to replace the declining energy resource; that Minerals Planning Statement 1 stresses the role of underground gas storage, and that a recent appeal decision has confirmed the national importance of security of gas supply.";

6.2.2 "... there will be a continuing and growing role for gas storage which, as well as helping to meet demand quantitatively, also provides security, flexibility and a short-term response...";

6.2.3 "...that a diverse portfolio of sites is to be preferred, that there is very limited scope for onshore depleted field storage...";

6.2.4 "...there is a strong case of need, in the context of national policy, for provision of underground gas storage capacity, including onshore capacity and depleted field storage."; and

6.2.5 "...that limited opportunities exist for depleted field storage and given the evidence about the quality of the resource and lack of clear or preferable alternatives, this site's potential for gas storage should be realised."

Resource implications of the proposed scheme

¹ Now the Secretary of State for Energy and Climate Change.

- 6.3 The Company is an indirect wholly owned subsidiary of Centrica plc (**Centrica**). Centrica is a leading UK energy company with upstream gas production activities in the Irish and North Seas; a fleet of gas fired power stations; onshore and offshore wind farms; and which supplies gas and power to a large part of the UK residential market under the "British Gas" brand. Centrica also operates in North America and Europe and has some interests in other parts of the world. Centrica has approximately 30,000 employees and reported a turnover of £22 billion and an operating profit of £1.8 billion for the year ending 31 December 2009.
- 6.4 Through its subsidiary, Centrica Storage Limited, Centrica owns and operates the UK's largest gas storage facility, the offshore Rough field in the North Sea and its associated reception terminal at Easington, East Yorkshire. The Rough storage facility has a capacity of approximately 3.5 billion cubic metres (bcm).
- 6.5 As production of gas from the North Sea declines and the UK becomes increasingly reliant on storage for security of supply, Centrica is investing in new gas storage facilities. In addition to the Caythorpe project, Centrica is developing two offshore gas storage projects – the Bains facility in the Irish Sea and the Baird facility in the southern North Sea. Including Caythorpe, these projects will bring an extra 2.45 bcm of storage capacity to the UK at a cost of approximately £1.8 billion; this will represent about 25% of the Government's 2020 storage capacity target².
- 6.6 The Scheme is expected to be funded partly from Centrica and partly via a loan from the European Investment Bank. Funds have been allocated to the Scheme by the Bank but formal approval of the loan remains outstanding. In the absence of external support, Centrica will make funding available from group resources. The Company has authority to acquire the interests required in this CPO.

Statutory Powers and Guidance

- 6.7 In addition to the description of the enabling powers set out above the Company has had regard to ODPM Circular 06/2004. This sets out guidance for those parties seeking to exercise their powers of compulsory purchase.
- 6.8 A compulsory purchase order can only be made where there is a compelling case in the public interest. In particular there must be sufficient justification for interfering with the human rights of those with an interest in the land affected. Sections 7 (Human Rights Act), 8 (Proposals) and 9 (Planning position) of this Statement set out the Company's justification for exercising powers of compulsory acquisition and considers that there is a compelling case in the public interest for the confirmation of the CPO.

² Energy Markets Outlook, December 2008 – Chart 5.12 UK Storage Space Projections.

7 Human Rights Act

- 7.1 The 1998 Act came into force on 2 October 2000.
- 7.2 The main articles of the Convention which are of importance in circumstances where the Company is considering making a CPO are Article 8 – the right to respect for private and family life and his/her home and Article 1 of the First Protocol – the protection of property.
- 7.3 Section 6 1998 Act prohibits public authorities from acting in a way which is incompatible with the Convention. Various Convention rights may be engaged in the process of making and considering the compulsory purchase orders, including under Articles 8 and Article 1 of the First Protocol. The approach to be taken to give effect to rights under the Convention is also reflected in paragraph 17 of ODPM Circular 06/2004:-

"A compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected, having regard, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention."

- 7.4 The European Court of Human Rights has recognised in the context of Article 1 of the First Protocol that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole", i.e. compulsory purchase must be proportionate. Both public and private interests are to be taken into account in the exercise of the Company's powers and duties as a gas transporter. Similarly, any interference with Article 8 rights must be "necessary in a democratic society" i.e. proportionate. In pursuing a compulsory purchase order, the Company has to carefully consider the balance to be struck between individual rights and the wider public interest having regard also the availability of compensation for compulsory purchase.
- 7.5 Article 8(1) provides that everyone has the right to respect for his/her property but Article 8(2) allows the State to restrict the rights to respect for the property to the extent necessary in a democratic society and for certain listed public interest purposes eg. public safety, economic well being, protection of health and protection of the rights of others.
- 7.6 In considering Article 8 in the context of a CPO it is necessary to consider the following questions:
- 7.6.1 does a right protected by this article apply?

- 7.6.2 has an interference with that right taken place or will take place as a result of the CPO being made?
- 7.7 Clearly Article 8 does apply because of the impact of the CPO and therefore it was necessary for the Company to consider the possible justifications for the interference (Article 8(2)) as follows:
- 7.7.1 is the interference in accordance with law? There is a clear legal basis for making the CPO under section Schedule 3 of the 1986 Act to deliver a gas storage scheme authorised by the Gas Act 1965.
- 7.7.2 does the interference pursue a legitimate aim? The CPO being necessary to implement the Scheme seeks overall redevelopment of the Order Land in accordance with planning permission.
- 7.7.3 is the interference necessary in a democratic society? This requires a balanced judgement to be made between the public interest and the rights of individuals. The CPO is considered to be both necessary and proportionate in that the land to be acquired is the minimum to achieve the Scheme objectives.
- 7.8 The second relevant article is Article 1 of the First Protocol, which provides that:
- 7.8.1 every natural or legal person is entitled to the peaceful enjoyment of his possessions
- 7.8.2 no one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law.
- 7.9 In designing the Scheme and with the work undertaken since the seismic survey the Company has sought to minimise the land required. The majority of the Scheme is sub surface (and for storage and drilling at least 152m below the surface) and so there will be very minimal impact on the continued operation of retained land at surface level. The balancing of the impact on landowners against the pressing need for increased gas storage means that with compensation payable there a justification to interfere with landowner's human rights.
- 7.10 The Company considered the effect of the above articles of the Human Rights and decided that on balance it was in the interest of the community to make the CPO over and above the interest of the individuals affected. Interference with Convention rights is considered by the Company to be justified for the reasons set out in this Statement of Reasons. The Company in making this CPO also had particular regard to the rights of the individuals to compensation.

8 Planning Position for the Order Land

8.1 Planning permission was granted on 6 February 2008 for the Scheme, following a public local inquiry held between 24 April and 11 May 2007 (appeal references APP/E2001/A/06/2024097 & APP/E2001/A/07/2037845). There is planning permission in place (subject to conditions) for the:

"Development of the existing Caythorpe power generation facility as an underground natural gas storage facility, the construction of a well site and the drilling of 6 boreholes to access an indentified underground gas-bearing geological structure, and the construction of a connection facility into the Transco National Transmission System together with associated inter-connecting pipelines."

8.2 The Scheme was also the subject of a unilateral undertaking submitted by Caythorpe Gas Storage Ltd pursuant to section 106 of the Town and Country Planning Act 1990 which provides for:

- (a) Traffic management, including lorry routes and times, warning signs, road safety measures and traffic control;
- (b) Compliance with the Control of Major Accidents Hazard Regulations (COMAH);
- (c) The setting up and running of a liaison committee, and related matters.

8.3 All pre-commencement planning conditions have been discharged. The Company does not consider that there are any planning impediments to the implementation of the Scheme. It is considered by the Company that it is not necessary to consider the planning merits for the Scheme again as this has already been considered by the Secretary of State on the grant of planning permission for the Scheme.

9 Application of any Government Policy

9.1 On 16 May 2006, the Secretary of State for Trade and Industry made a statement to the House of Commons on the interaction of existing Government policy and planning procedures with regard to the need for additional gas supply infrastructure. The statement, in relation to storage capacity, said:

"Storage infrastructure is substantially more important to us now than it was in the past when we had our own indigenous supplies. Our gas reserves in the North Sea reduced our need for gas storage, as compared to the needs of some of our European neighbours who lack indigenous supplies. To replace the capability of the southern North Sea gas fields and the Morecambe field in Morecambe Bay, which have traditionally provided increased gas supply to meet seasonal peaks in demand (e.g. in winter), we now need more storage than we have required in the past."

Energy Statement of Need for Additional Gas Supply Infrastructure, Secretary of State for Trade and Industry, 16 May 2006.

- 9.2 A primary aim in the then Government's Energy White Paper 2007 was to maintain security of energy supplies by "promoting open, competitive energy markets which provide fair access to energy supplies and foster investment and deliver secure supplies at competitive prices". It recognises the need for gas storage as a major contributor to gas supply security by "avoiding socially unacceptable levels of interruption to physical supply and excessive costs to the economy from unexpectedly high or volatile prices" and specifically states that it will "increase gas storage and import infrastructure by facilitating the construction of gas supply infrastructure both onshore and offshore, through reforms to the planning and licensing regime". Government responded to this commitment and created the Planning Act 2008 for stream-lining the system for decisions on applications to build nationally significant infrastructure in England and Wales, which includes gas storage projects with a capacity greater than 43 million cubic metres (Mcm). However this new regime does not apply to already consented schemes which have the consents listed in s.33 of the Planning Act 2008. The Scheme benefits from all relevant consents required.
- 9.3 Storage facilities have benefits beyond increasing the diversity of supply sources and increasing supply security. They also promote gas imports from Europe during summer, a time of low demand, thus increasing investment returns on import facilities, whilst potentially reducing gas prices and providing some protection against price shocks.
- 9.4 DECC's Energy Market's Outlook (December 2009) states that "*Storage is one means of managing seasonal demand fluctuations – gas tends to be put into storage in the summer months when gas is cheap and abundant and taken out in the winter months when the demand for gas is highest and prices higher. Storage is also one option for dealing with short-term demand fluctuations or supply disruptions*"
- 9.5 Under its base case scenario, there is an expectation that the UK will be storing about 12% of its expected annual demand by 2020/21 but of the additional capacity that is needed to meet this target, less than 20% is currently under construction. With lead times of 5+ years (post planning consent) to bring a storage project into commission, there is a significant risk that the Government's forecast will not be met. Gas delivered from Caythorpe will be able to meet about 3% of daily average winter gas demand in the UK and combined with its rapid cycling capability, it will be a major contributor in meeting the daily peaks in gas demand or short term supply failures.
- 9.6 In November 2009 the Government issued a series of consultation documents on National Policy for Energy Infrastructure. This included an overarching statement for all forms of energy and made reference to the need for Gas storage because "*as the*

North Sea supplies decline there is a significant need for this infrastructure to be provided."

- 9.7 In the recent decision on the Saltfleetby Gas Storage Project promoted by Wingas the Secretary of State in the decision letter dated 9 September 2010 also made reference to the following:

"the Minister of State for Energy and Climate Change has published a Parliamentary Written Answer about natural gas - security" ("Official Report", 13 July 2010, cols. 652W-653W). This mentioned three consultancy reports for the Government on aspects of security of gas supply. It noted that there are significant risks to the security of gas supply into Great Britain; that, so far as feasible, these risks should be managed; that this reinforces the national need for additional gas supply infrastructure; and that there may also be a case for adjustment to the regulatory framework, to improve gas market operation. The answer confirmed that the Government will take this into account in completing the process for making the energy national policy statements under the Planning Act 2008. The Government has also (27 July 2010) laid before Parliament an "Annual Energy Statement", which (see "Action 12 ,) confirms that: "In the future, we need more gas storage capacity, more gas import capacity, and greater assurance that our market will deliver gas when it is needed." The Parliamentary Written Answer and Annual Energy Statement reaffirm and develop the conclusion as to need of the draft National Policy Statement for Energy (EN-1), and the draft National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4), published in November 2009. The Secretary of State therefore considers that the Saltfleetby gas storage proposal has to be assessed against the background that, while Great Britain's gas storage capacity has increased by around 25% over the last decade, it will need to increase further in future years in order to maintain security of supply."

- 9.8 Whilst the Secretary of State has already determined that there is a need for the Scheme, the Company considers that this need has been reinforced since the decision on the 2006 Order because of the statements set out above.

10 Special Considerations for the Order Land

- 10.1 None

11 Details of Views from Government Departments

- 11.1 None

12 Contacts for further information

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13 Related Orders

13.1 None

APPENDIX 1

Figures

Figure 1 Extent of SAO Boundary (Edged Blue) and proposed Caythorpe drilling area coloured green being land included in CPO and coloured pink which has been secured by agreement.

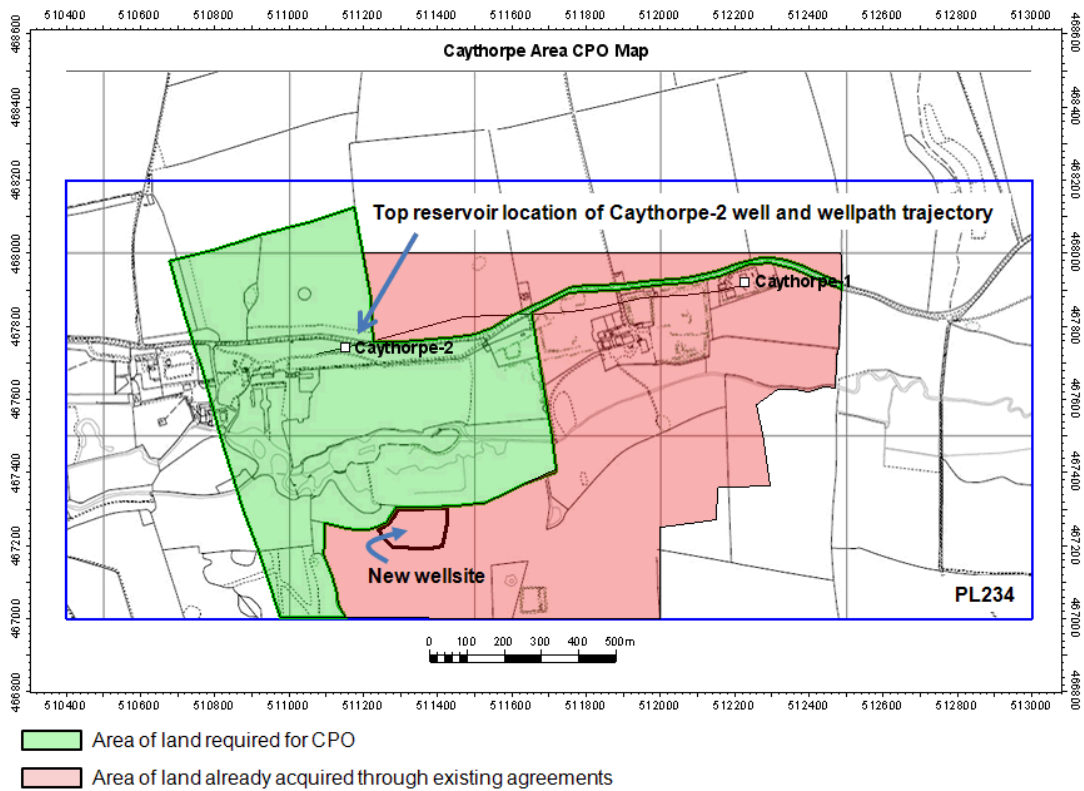


Figure 2

