

RIVERSIDE ENERGY PARK DCO

LB Bexley Relevant Representation

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Contents

1	INTRODUCTION	3
2	LOCATION DETAILS	3
	Site and Surroundings	3
	Planning History	3
3	REPRESENTATIONS ON SCHEME	4
	Planning Policy: Waste	5
	Socio-economics	6
	Air Quality	7
	Biodiversity	10
	Historic Environment	11
	Transport	12
	Ground Conditions	16
	Townscape and Visual	17
	Noise and Vibration	19
	Flood Risk and Water Resources	19
4	FURTHER REPRESENTATIONS ON DRAFT DCO	21
	Article 3	21
	Article 8	21
	Article 18	21
	Article 23	21
	Article 26	22
	Article 28	22
	Article 43	22
5	CONCLUSIONS	22

1 INTRODUCTION

- 1.1 Cory Environmental Holdings Limited is seeking Development Consent under the Planning Act 2008 from the Secretary of State for Energy for a Riverside Energy Park situated adjoining the existing Riverside Resource Recovery Facility (RRRF) on land at Norman Road, Belvedere, Bexley.
- 1.2 LB Bexley is the local planning authority within which the main part of the project is situated, and this document is its Relevant Representations to the Planning Inspectorate on this Nationally Significant Infrastructure Project.

2 LOCATION DETAILS

Site and Surroundings

- 2.1 The Cory Riverside Energy Plant is located in Belvedere, directly south of the River Thames. The site is accessed via a two-lane road which runs in a north/south direction which joins onto the A2016, a dual carriage way which forms part of the South Thames Development Route that with part of the A206 links Deptford with Greenhithe and the Dartford Crossing.
- 2.2 To the East of the site is an industrial estate which is used as a distribution centre for such companies as Asda, Amazon and Lidl. To the West of the site is the Crossness Sewage Treatment Works as well as the Crossness Nature Reserve. The nature reserve is one of the last remaining areas of grazing marsh land in Greater London and is the largest reedbed in Bexley. Beyond the Crossness Nature Reserve and sewage treatment works is the residential area known as Thamesmead.
- 2.3 To the south of the site is another (smaller) industrial estate as well as residential dwellings. To the north of the site, across the River Thames is the London Borough of Barking and Dagenham, and more specifically Barking Reach Power Station.

Planning History

- 2.4 **2018 (2018/01743/SCREEN)** Statutory consultation on a proposed application for development consent Section 42 Planning Act 2008 (and Regulation 13 of the Infrastructure Planning (EIA) Regulations 2017). **Observation sent.**
- 2.5 **2017 (17/02902/ALA)** Request to the Planning Inspectorate for a Scoping Opinion: Application by Cory Environmental Holdings Limited for an Order granting development consent for the Riverside Energy Park for the Secretary of State's opinion as to the information to be provided in an Environmental Statement relating to the proposed development. **Observation sent**
- 2.6 **2016 (16/02167/FUL) p.p. subject to S106** for Proposal under Section 73 of TCPA 1990 regarding the Energy from Waste facility approved under reference 99/02388/CIRC24 dated 13.3.2015 to amend Condition 27 to allow up to 195,000 tonnes of waste to be delivered to the development by road in any calendar year and the continued operation of the plant without compliance with conditions 10 and 30 to allow the delivery of waste by river and by road on a 24/7 basis.
- 2.7 **2014 (14/02357/LDCP) Certificate of Lawful Development granted** for the modification of a section of external cladding on the eastern elevation of the main facility building.
- 2.8 **2014 (99/02388/CIRC24) – application made October 2014 (reference relates to original consent)** Application to the Secretary of State for Energy and Climate Change for consent under Section 36 of the Electricity Act 1989 to vary the consent for the energy from waste facility granted on 15 June 2006, namely variation of

conditions 2, 4 and 5 under consent GDBC/003/00001c-06 to allow an increase in the maximum throughput of the facility from 670,000 tonnes per annum (tpa) to 785,000 tpa of waste and the option for river borne waste to be transported to the facility from the Port of Tilbury in addition to the existing network of riparian waste transfer stations in Greater London. **Observation Sent.**

- 2.9 **2011 (11/01387/FUL) p.p. for** proposal under Section 73 of the TCPA 1990 regarding the Energy from Waste facility approved under reference 07/11615/FUL to allow movement of materials, waste and residual material following incineration between the jetty and the plant and the ash container storage area shall only take place between the hours of 6am-9pm Mondays to Saturdays except in any emergency of following a jetty outage and on Sundays between the hours of 7am-7pm.
- 2.10 **2011 (11/00083/GPDOPD) Planning permission not required for** the construction of a new 11kv micro substation.
- 2.11 **2009 (09/00612/FUL) p.p. for** proposal under Section 73 of TCPA 1990 regarding the proposals for Energy from Waste Generating station approved under reference 07/11615/FUL to remove condition 45 which requires on site provision of a tow truck at all times during the operation of the development.
- 2.12 **2008 (08/03256/FUL) p.p. for** widening of Norman Road, realignment of existing ditch and ecological enhancements.
- 2.13 **2007 (07/11615/FULMIN) p.p. for** minor amendment to: Proposals for Energy from Waste Generating Station without complying with Condition 40 of permission GDBC/003/00001C-06 to allow Norman Road improvements to run in parallel with the construction of the building.
- 2.14 **2007 (07/11615/FUL) p.p. for** proposals for Energy from Waste Generating Station without complying with Condition 40 of permission GDBC/003/00001C-06 to allow Norman Road improvements to run in parallel with the construction of the building.

3 REPRESENTATIONS ON SCHEME

- 3.1 LB Bexley welcomes the potential employment opportunities and investment that the development will bring to this part of the Borough but remain to be convinced that the development is justified and can be carried out in a manner that does not cause material harm to the range of interests set out below. In particular, LB Bexley is keen to ensure that the socio-economic benefits are fully secured and that the plant operates in a way that minimises its impact on the congested highway network serving it by the optimisation of river-borne transport as well as appropriate mitigation (and, where relevant compensation) of air quality and biodiversity impacts. If the impacts set out below can be satisfactorily avoided, mitigated or compensated for then LB Bexley can lend its support to the scheme.
- 3.2 The main planning issues raised by the application are:
- Planning Policy: Waste
 - Socio-economics
 - Air Quality
 - Biodiversity
 - Historic Environment
 - Transport
 - Ground Conditions
 - Townscape and Visual
 - Noise and Vibration
 - Flood Risk and Water Resources

- 3.3 This section provides an assessment of these key issues and highlights areas of contention, it also identifies potential further mitigation measures that should be pursued, arising from a review of the Preliminary Environmental Information Report (PEIR) and Environmental Statement (ES).

Planning Policy: Waste

- 3.4 The Project seeks to provide a two stream ERF to thermally treat commercial and industrial waste, with the potential for municipal solid waste. Currently over 3 million tonnes of residual waste is exported to Europe for use as a fuel mostly in waste to energy plants (1.5 million tonnes to Netherlands, 0.64 million tonnes to Germany 0.529 million tonnes to Sweden, the rest to other EU locations). This data is from a report by the Chartered Institution of Wastes Management "RDF Trading in a Modern World" November 2018. It is estimated that over 1 million tonnes come from London and is mostly commercial & industrial waste.
- 3.5 The Greater London Authority has made an assumption that the waste will mostly be from municipal sources and hence there being a shortfall by 2030. It is proposed that the prime source will be from commercial and industrial sources. This is considered reasonable. If there is higher than predicted recycling and lower than predicted growth the ability to sustain this until the 2030's becomes more challenging, but the applicant's data shows that there will still be a reasonable gap.
- 3.6 The Greater London Authority state that the extra incineration capacity will suppress business recycling; however, this is dependent on gate fees. LB Bexley pays over £100 per tonnes for residual waste processing and this makes all our recycling more cost effective. With respect to small businesses, which often have a shortage of space and not much waste, the cost differential between recycling and just disposing of the waste would be small: a couple of £100's per year.
- 3.7 Consideration should be given to requiring waste to be pre-treated to remove recyclables before delivery to the site.
- 3.8 The Greater London Authority report states that the existing plant has been operational for 15 years. Although it received its EA permit in September 2003, it started taking waste in early 2011 so has been operational for less than eight years.

Areas of contention

- 3.9 From LB Bexley's initial review of the ES chapter and associated documentation, there are the following areas of contention:
- The demand for the EfW plant to operate in CHP mode and the requirement for the plant to operate in CHP mode at the start of or early in the plant's operation;
 - The reasoning / need case behind the proposed capacity of the AD plant of 40,000 tpa;
 - The reasoning / need case behind the proposed capacity of the EfW plant of 655,000 tpa and 805,920 tpa in light of the draft London Plan suggesting there to be no requirement for new EfW capacity;
 - The availability of suitable wastes from outside London and how such wastes would be transported to the site via the river;
 - The DCO requirements to include reference to a maximum capacity for the plant that relates to the presented waste assessment case (655,000 tpa);
 - The DCO requirements to include reference to the requirement for river transport of waste, with any road transport levels capped at a specified number; and
 - The reasoning behind the need for the plant to be located in LB Bexley's area, having regard to the proximity principle (LB Bexley UDP Policy WAS2) and apportionment targets set out in the draft London Plan.

Potential for further mitigation

- 3.10 Including more detailed requirements in the DCO for the plant to operate in CHP mode would offer more certainty of the provision of heat from the proposed development.
- 3.11 Including more detailed requirements in the DCO for waste to be delivered to the plant via the river would offer more certainty of river transportation being undertaken and reduce potential traffic movements on local roads.
- 3.12 A requirement should be placed on the Applicant to undertake pre-treatment of wastes prior to incineration would accord with the waste policies and help move the management of wastes up the waste hierarchy.

DCO requirements

- 3.13 Some of the assessments within the ES could suggest that Cory are seeking an EfW plant with a capacity of 805,920 tpa with all the waste being brought in by road. Some assessments such as the need assessment appear to be based on the nominal capacity of 655,000 tpa. However, it is recommended that the DCO requirements include specific reference to the following matters:
- A DCO requirement should be added to explicitly cap the waste capacity of the proposed REP EfW facility. On the basis of the assessment presented in the London Waste Strategy Assessment (Document Reference 7.2) this capacity should be limited to 655,000 tpa;
 - A DCO requirement should be added to explicitly state that waste is to be delivered to the proposed REP from a riparian transfer station with any proposed road traffic levels being specified;
 - A DCO requirement should be added to require pre-treatment of waste prior to incineration; and
 - Schedule 2 Article 17 of the DCO be amended to include more detailed requirements for the plant to operate in CHP mode in order to offer more certainty of the provision of heat from the proposed development.

Socio-economics

- 3.14 The Project has the potential to contribute significantly to employment needs in the north of the borough, an area with relatively high levels of unemployment. There are opportunities in both the construction and the operation phases of the Energy Park, and these potential benefits need to be secured.
- 3.15 An employment and skills plan would need to be agreed that optimised the benefits of the opportunities associated with this development. Further details on the Schedule of Works would be needed to fine tune plans for apprenticeships, placements for schools and other outcomes, but at this stage the areas that would need to be addressed would include:
- Work Placement (in education)
 - Work Placement (NEET)
 - Work Placement (adult unemployed)
 - CEIAG Event/Advice
 - Apprenticeships Level 3/4+ (developer)
 - Apprenticeships Level 2 (sub-contractor)
 - Group Site Visit / Workshop - College
 - Construction H&S/Ethics Workshop - College
 - Progression into Employment - (move from unemployment/full time education)

- Progression into Sustained Employment (26 weeks) - (move from unemployment/ full time education)

Areas of contention

- 3.16 There is a potential disparity between the net additional values quoted within the final conclusions sections and those reported within the main text of the document. For example, 39 net additional jobs are quoted in section 14.9.18 of the ES whereas 49 additional jobs are quoted in the conclusion section of this Chapter. Clarification on these assessment conclusions should be sought from the Applicant.

Potential for further mitigation

- 3.17 The Applicant states that it has a strong preference to recruit locally wherever possible. However, no evidence has been provided, or performance metrics included, to incentivise the implementation of this mitigating action in reality. Target ratios for local employment should be set to maximise the internalisation of potential economic benefits and avoid leakage of benefits outside of the Bexley and the Greater London area.
- 3.18 Use of the site for training or educational or community purposes which can add value to the local society and broader industry should be sought to be included within the use of the facility.

Air Quality

- 3.19 The key air quality and related issues are as follows:
1. Public concern with regard to the health impacts of EfW facilities. These concerns are often unfounded but mean that particular attention will need to be paid to fully dealing with the air quality issues. LB Bexley will also wish to reassure its residents by seeking confirmation on some issues which would ordinarily form part of the permitting process. These may include the following issues:
 - a. Basis for determining the proposed stack height; and
 - b. The assessment of potential risks to health due to emissions of substances which are not covered under Local Air Quality Management, including metals, polycyclic aromatic hydrocarbons (PAHs), dioxins and furans, and dioxin-like polycyclic biphenyls (PCBs).
 2. Fully addressing combined and cumulative impacts:
 - a. combined effect of stack emissions from the existing RRRF plant, proposed REP waste to energy facility and biogas combustion emissions;
 - b. combined effect of transportation and process emissions; and
 - c. cumulative impacts with other permitted development.
 3. Determination of appropriate stack height;
 4. Potential impacts on air quality and health of emissions of oxides of nitrogen, metals and dioxins and furans;
 5. Potential impacts of released substances on international, nationally and locally designated nature conservation sites; and
 6. Compliance with national and draft Greater London Authority policy on air quality.

Areas of contention

- 3.20 From LB Bexley's initial review of the ES chapter and associated documentation, there are the following six areas of contention:
1. The need to consider potential for combined and cumulative impacts:
 - a. The ES states that "The emission rates in g/s are for both flues combined." It is assumed that this refers to the two flues associated with the two lines of the

- proposed REP WtE facility. This is consistent with data in Appendix C which suggests that the contribution from the existing ES has been added to baseline, rather than representing the combined impact of the existing and proposed facilities. It would be preferable for the assessment to represent the combined impacts of the existing and proposed facilities, and the proposed AD plant. This will need to be clarified in discussion with the Applicant's specialist consultant, to confirm the basis of the ES and seek agreement on how the combined impacts of the existing and proposed facilities can be fully understood.
- b. Many stakeholders requested that the combined effect of process and traffic emissions should be assessed. The ES states that this cannot be done, but in fact it can readily be achieved in models such as ADMS-Roads. This combined impact assessment should be carried out, although it is unlikely to lead to a change in the study conclusions.
 - c. The ES takes account of cumulative impacts from other committed development via the assessment of baseline traffic.
2. Several stakeholders requested information on how the stack height had been identified. The ES Section 7.8.2 states that "A stack sensitivity analysis has been completed to provide an optimised stack height to adequately disperse emissions," but this information is not present in the ES. It should be provided to verify the proposed stack height of 90 m.
 3. The interpretation of study results should be clarified:
 - a. Dioxins and furans are likely to be a particular concern to members of the public. The forecast impact on dioxin and furan exposure is a maximum increase of 4.2% of the UK tolerable daily intake (ES paragraph 7.9.39). If the same criteria are applied as in table 7.21, this increase in exposure could be described as "Major" (depending on baseline exposure). However, the ES describes this impact as "insignificant." Further explanation of this conclusion should be provided by the Applicant;
 - b. There are "minor" impacts due to levels of nickel and arsenic at seven identified locations. In practice, these locations are likely to be representative of wider scale exposure, and so the "minor impacts" would affect more than seven properties. This should be taken into account in reaching a judgment on the overall impact of the proposed development;
 - c. Furthermore, there are some short-term impacts described in the ES paragraph 7.9.32 that would be classed as "moderate" significance using the criteria set out in Table 7.22. The classification of these impacts using the criteria in Table 7.22 should be clearly stated, and these impacts should be taken into account in reaching a judgment on the overall impact of the proposed development and appropriateness of the proposed 90 m stack height; and
 - d. A potential issue in relation to the interpretation of model results at nationally designated habitat sites is addressed as part of the review of the Nature Conservation assessment in the ES.
 4. No specific reference is made to impacts on the Bexley Air Quality Management Area (AQMA) or other AQMAs in the conclusions. This is unlikely to affect the study findings, as the study assesses air quality impacts within the Bexley AQMA but should be included to demonstrate compliance with national and local policy.
 5. No specific discussion in relation to draft London Plan policy S11 is provided in the conclusions. This was a specific request of the Greater London Authority. For example, the ES should demonstrate and confirm that the proposed development does not:
 - a. lead to further deterioration of existing poor air quality;

- b. create any new areas that exceed air quality limits, or delay the date at which compliance will be achieved in areas that are currently in exceedance of legal limits;
 - c. reduce air quality benefits that result from the Mayor's or boroughs' activities to improve air quality; and
 - d. create unacceptable risk of high levels of exposure to poor air quality.
6. Other relevant aspects of draft policy S11 should also be addressed.
 7. The baseline data in Table 7.27 appears to underestimate baseline air quality in Bexley compared to the measured data. This is unlikely to affect the study conclusions but should be clarified by the Applicant.

Potential for further mitigation

- 3.21 Substantial embedded mitigation of air quality impacts is already provided as part of the proposed development. It will be important for the Applicant to demonstrate that the process design and abatement is sufficient to ensure that the proposed emissions limits can be achieved in practice. This verification, and the application of appropriate emissions limits, should be carried out as part of the Environmental Permitting process.
- 3.22 In view of the significant emissions of air pollutants from the proposed facility, LB Bexley requires funding to continue with, and potentially expand, the existing air monitoring programme which was implemented in relation to the existing facility. LB Bexley suggests using a "damage costs" approach as the basis for developing an appropriate financial contribution. This would involve allocating a financial value per tonne of pollutant emitted using standard values published by Defra. These values are designed to give an indication of the economic cost associated with the quantity of pollution emitted – for example, due to the effects of the pollutants on health. This valuation could be used as the basis for defining a suitable contribution to ongoing and expanded air quality monitoring in the local area.

DCO requirements

Commencement

- 3.23 As site clearance could potentially give rise to dust and emissions from construction equipment, it would be important for the specified pre-commencement activities not to take place until the Code of Construction Practice (CoCP) has been finalised and signed off and implemented so far as relevant to the pre-commencement activities. This may be satisfactorily covered under Schedule 2 para 11: "No part of the authorised development may commence until a code of construction practice for that part has been submitted to and approved by the relevant planning authority"

Schedule 2

- 3.24 Mitigation of operational air quality impacts is largely built in to the scheme design, so generally there is no need to specify additional mitigation in Schedule 2. However, there are two exceptions:
 - Schedule 2 Para 11(d) could usefully specify that these nuisance avoidance measures should be specified in accordance with the IAQM guidance referenced in the ES paragraph 7.5.13 and following. This is ES Chapter 7 reference "Holman et al (2014). 'Assessment of dust from demolition and construction', IAQM, London."
 - A further paragraph in Schedule 2 along the following lines is suggested.:

"Ambient air quality monitoring

(a) Prior to the date of final commissioning, a plan for continuous ambient air quality monitoring to confirm the absence of significant air

quality impacts must be submitted to and approved by the relevant planning authority, using the most recent published Damage Costs for air pollution published by the UK government as the basis for specifying an appropriate air quality monitoring budget.

(b) The ambient air quality monitoring plan must be implemented as approved."

- 3.25 LB Bexley wish to seek funding to continue with, and potentially expand, the existing air monitoring programme which was implemented in relation to the existing facility. This is necessary to cover ongoing maintenance and capital equipment update/replacement costs of the LB Bexley's current air quality monitoring stations. An amended form of the agreement that was originally implemented as part of the original RRRL development will be necessary.

Biodiversity

- 3.26 The key ecology themes that appear of relevance to the REP proposals include:
- Survey omissions: The requirement for additional ecological surveys including a bat survey, otter survey and great crested newt surveys;
 - Compensation: Details on the draft biodiversity metric for REP is required to be provided, so the adequacy of such measures can be properly reviewed and assessed. Furthermore, details of how much or where replacement or enhanced habitat will be provided is required;
 - Mitigation: More detail should be provided on capture, displacement, and receptor sites for species mitigation proposals. Otherwise it is impossible to assess the feasibility and appropriateness of the proposals; and
 - Local designated sites: most significant biodiversity risks seem to be related to the proximity of Crossness LNR/Erith Marshes SINCR, and the value this land has for local biodiversity (and the community) in an otherwise heavily developed setting.

Areas of contention

- 3.27 From LB Bexley's initial review of the ES chapter and associated documentation, there are the following areas of contention:
- The suitability of, and the reasoning behind, the significance criteria adopted in the ES;
 - Consideration of stag beetles with regard to Epping Forest SAC;
 - Further consideration of noise impacts on wintering birds;
 - Further consideration of impacts of the proposed development on non-designated habitats of local importance;
 - Impacts of lighting on invertebrates; and
 - Provision of further details to provide assurance that the applicant will adequately mitigate risks of spreading invasive non-native species.

Potential for further mitigation

- 3.28 Detailed comments on potential mitigation measures have been provided by the Crossness Site Manager and are therefore not repeated here. Many of the ideas for compensation and enhancement presented seem sound and worthy of further exploration.
- 3.29 Further details on the compensation measures to be provided in relation to the open-mosaic 'wasteland habitat' area are considered worthy of further exploration.

DCO requirements

- 3.30 The normal definition of 'commencement' in the draft DCO (Part 1) has been changed to allow for certain activities to be excluded, and therefore take place before 'commencement'. This includes activities that could significantly impact on biodiversity such as land clearance, ground investigations (including the making of trial boreholes), receipt and erection of construction plant and equipment, erection of construction welfare facilities, and erection of any temporary means of enclosure.
- 3.31 To deal with the potential impacts of such 'pre-commencement activities', Schedule 2 provides for a 'Pre-commencement biodiversity and landscape mitigation strategy' that should include 'details of mitigation measures required to protect protected habitats and species' during the pre-commencement works. However, this pre-commencement strategy requirement appears to omit the provision of the following, which are only required later, before formal commencement:
- the results of the biodiversity off-setting metric together with the value of off-setting required and the nature of such off-setting;
 - the mechanism for securing the off-setting value and (where appropriate and necessary) any long-term management and monitoring commitments in respect of the off-setting; and
 - any hard and soft landscaping to be incorporated within Work Nos. 1, 2, 3, 4, 5 and 6 including location, number, species, size, etc.
- 3.32 The omission of these elements means that significant loss and damage to biodiversity could occur on site before any off-setting and landscaping intended to mitigate it has been agreed by the authorities. LB Bexley recommends that these elements should be required and agreed before any pre-commencement work is undertaken.
- 3.33 Part 4 Supplemental Powers: Article 20 relates to the felling or lopping of trees. This would appear to provide authority for works to trees or shrubs near to the development that the undertaker believes is necessary. There is no provision, for any trees or soft landscaping to be protected that form part of other approved developments, or significant specimens within the public realm/highway (that, if on private land, would be subject to a TPO). Such protection should be included in the DCO.

Historic Environment

- 3.34 Based on the review, there are no significant historic environment issues that are likely to present a challenge to the scheme.
- 3.35 The following minor methodological points have been identified:
1. Importance levels assigned to types of heritage asset (Table 10.3):
 - a. Conservation Areas would generally be expected to be considered as being of 'high' importance, reflecting their status as statutorily-designated assets. It is recognised that the ES uses a geographical framework (i.e. international/national/regional/local), but this is viewed as being somewhat at odds with the status and importance of Conservation Areas.¹
 2. Reporting of minor beneficial residual effect with regard to construction effects on geoarchaeological deposits of local significance:

¹ Cory may wish to revisit this interpretation, although it is noted that this change would not be likely to give rise to significant effects. Cory may simply wish to clarify the importance of the specific Conservation Areas under consideration.

- a. An assessment conclusion of Minor adverse pre-mitigation; Negligible / Minor-negligible would perhaps be more realistic. The development will result in total loss of geoarchaeological deposits within the affected area; partial preservation by record will mitigate some of this loss – but not all.²

Areas of contention

- 3.36 From our initial review of the ES chapter and associated technical appendices, there are no significant areas of contention. It would be helpful if the applicant could consider:
- Rewording paragraph 10.5.5 of the ES to clarify that grading of listed buildings has no direct relationship to the contribution that setting makes to their special interest/significance;
 - Clarifying the level of importance of the Conservation Areas considered in the assessment / revising the importance level assigned generally to Conservation Areas in Table 10.3; and
 - Revisiting the minor beneficial residual effect to geoarchaeological deposits recorded.

Potential for further mitigation

- 3.37 It is considered that the programme of archaeological investigation and mitigation proposed is sufficient.

Transport

- 3.38 The site connects to a congested road network, so it is imperative from LB Bexley's perspective that the development is designed, implemented and operated in a way that minimises the amount of traffic using local roads and maximises the amount of traffic that comes to and departs from the site via the River Thames.
- 3.39 The key transport issues that appear of relevance to the REP proposals include:
- No acknowledgment of Transport for London Transport Assessment Guidance and the Healthy Street for London at regional level, and LB Bexley's Local Implementation Plan (2014) and the Consultation Draft Local Implementation Plan (2018) at the local level;
 - Technical feasibility of river transport of abnormal loads is unclear, while the ES states that "Construction materials would potentially be transported by both river and road" (ES, paragraph 6.4.12), the TA states "Construction materials will be transported by both river and road" (TA, paragraph 4.2.2);
 - Applicability of Census Bexley 003 MSOA workplace population data to REP staff and their travel behaviour given that the existing RRRL EfW incinerator has a staff travel plan that will provide accurate details of employee travel mode;
 - Trip attraction parameter of 1,104 vehicular construction workforce trips is derived from the 552 car park capacity alone, ignoring the reality of shift working requiring multiple use of parking spaces over the course of one working day;
 - Absence of a right-turn entry from Picardy Manorway into Norman Road is noted, with a reference to "The scale of the Proposed Development's impact on Picardy Manorway is not sufficient to require the implementation of a new junction at this point". Some 408 daily vehicle movements (TA, Table 5.4) use the B253 Picardy Manorway during construction during peak month 13, which is deemed sufficient

² It is requested that Cory revisit this assessment and consider revising the residual effect to better reflect the loss of archaeological material and the partial mitigating effect of the proposed geoarchaeological monitoring.

to the construction phase impact to warrant a detailed assessment of the need for a dedicated site access;

- Scope of construction vehicle impact should be assessed beyond Norman Road, given the inconsistency of data of 171 one-way REP trips to Norman Road, which is related to the uplift to the two-way flow of Norman Road, thereby underestimating its impact by 100%. The resulting increase on Norman Road (North) of 64% is therefore deemed, for example, a moderate magnitude under severance, and should be reassessed;
- Consequently, given the above queries in regard to the underlying parameters, and the numerical discrepancies outlined, the ES results of all assessment criteria as “negligible”, both under the construction and operational scenarios, and the highway impact assessment (TA, Section 6) should be reviewed;
- The source of the assumptions (ES paragraphs 6.4.27 to 6.4.28) regarding origins and destinations, frequency and time of movements, and distribution of traffic is unclear. The operational traffic assumptions around waste deliveries being averaged out during the day are questioned, with RCVs and waste transfer stations often restricted and unable to operate on a 24-hour basis. Further details are requested, and assessment work is sought having regard to existing weighbridge data serving the RRRF plant; and
- Notwithstanding that revised parameters are expected to result in a greater impact and therefore necessitate a revised package of mitigation measures, no Delivery and Servicing Plan is included, as pledged by the PEIR (paragraph 6.10.7) and requested by LB Bexley (Consultation, July 2018).

Areas of contention

3.40 From LB Bexley's initial review of the ES chapter and associated documentation, there are the following areas of contention:

- Avoidance of river transport for abnormal loads;
- Underlying travel behaviour data (Census);
- Underlying assumptions to derive workforce trips;
- Underlying assumptions to derive operational traffic figures;
- Conclusions on the need for a right-turn entry from Picardy Manorway;
- The results of ES of all assessment criteria as “negligible”; and
- The lack of a Delivery and Servicing Plan.

Potential for further mitigation

3.41 LB Bexley is currently working on network improvements as well as alterations to local bus services with stakeholders/partners. There may be opportunities arising from this that would benefit the proposed development (or which might assist in mitigating the potential impacts of the proposed development that the applicant could contribute to), especially as it is sited within the Bexley Riverside Opportunity Area.

3.42 The feasibility of river transport of abnormal loads to alleviate road traffic impact should be further explored.

DCO requirements

Part 2 Principal Powers

3.43 Article 6 – Disapplication of legislative provisions.
No Highways Act 1980 or NRSWA 1991 powers were disapplied, other than where specifically referenced in the Articles. Given the delivery of abnormal roads by road it may be appropriate for the undertaker to enter into an agreement with LB Bexley S59 Highways Act 1980 to recover the costs of any damage to the roads and verges, particularly in Norman Road.

Part 3 Street

- 3.44 Article 10 – Street Works
LB Bexley is the street authority for all the highways (streets and PROW) listed in Schedule 3 that are within the LB Bexley. Although there is a general description of the approximate location of the proposed street works in column (3) of that Schedule, the details of the proposed street works have not been discussed and/or agreed with LB Bexley. This should be completed prior to the provisions of sections 54 to 106 of the NRSWA 1991 being applied.
- 3.45 Article 11 – Power to alter layout (permanent) etc
As with Schedule 3, Bexley is street authority for all 4 sections of Norman Road (highway) listed in Schedule 4 Part 1 (as well as all the areas listed in Part 2 of that Schedule, which are also all highway), and it is unclear why a general power is being granted in respect of public areas outside the undertaker's control. Also, while an outline of the nature of works and their approximate location is included in column (3) of Schedule 4, these alterations have not been discussed or agreed with LB Bexley. The proposals for Work No. 6, between points C and D on sheet 2 of the Access & Public Rights of Way Plan is of concern, as set out in the comments on Article 13 below.
- 3.46 Article 12 – Temporary prohibition or restriction of use of streets and PROW
The general power in sub-clause (1) appears to allow the closure of public areas without notice and for the areas to be used for the undertaker's private use (all the areas listed in Schedule 5 that are in Bexley are highways). This is not acceptable. Sub-clause (3) deals with access to premises, however the need for utilities to gain access to their plant within the areas needs to be preserved and the adequacy of the protection afforded by Article 32 and Schedule 10 will need to be confirmed. With regard to Schedule 5 itself, the second entry refers to the area between points C and D on sheet 2, which according to LB Bexley's records is part of Norman Road, and not an access road as described. Column (3) of the Schedule describes approximate termination points of proposed prohibitions etc, as well as specifying up to half the width on single and dual carriageway roads (implying that for PROW it will be up to full width). There have been no discussions with LB Bexley relating to this approach.
- 3.47 Article 13 – Permanent Stopping Up of streets
As referred to in respect of Article 11 above, despite the paucity of details the proposal to stop up that section of Norman Road between points C and D on sheet 2 is not acceptable as currently shown. To terminate full public rights on Norman Road at point D will remove all opportunities for vehicles to turn around, in the absence of which vehicles (including HGVs) could be required to reverse the length of Norman Road, prejudicial to traffic flow as well as conditions of safety for all road users (potentially including cyclists). The current limit of adoption shown on sheet 2 is incorrect, as to the north of point D it extends into the vehicle access to the east as far as the site entrance gates (including the carriageway and footways). The highway could be terminated just before the 90-degree bend to the north of this access, which would allow any vehicles not wishing to visit the site to using the area to the north & east of point D and allowing the stopping up of highway rights around the bend and to the east. Rights of any utilities within the area to be stopped up are covered by Article 33 and the protective provisions in Schedule 10.
- 3.48 Article 14 – Access to works
These works should, and presumably would, be subject to the usual notifications set out in the NRSWA 1991 (sections 54 etc) to ensure that utilities' statutory rights are protected. The areas set out in Part 1 of Schedule 4 are all part of the adopted highway, as are the streets listed in Part 2 of the Schedule that are within Bexley, and the details of any permanent or temporary works pursuant to Articles 11 or 12 must be

agreed with LB Bexley as local Highway Authority for those streets as part of the Order (as with any other access-related works in the highway at other locations within the Order limits as set out in Article 14(3)).

3.49 Article 15 – Agreements with street authorities
The provisions of 1(a-e) and 2(a-c) seem appropriate, however the acceptability of any of the works that might fall under this article or their implications for LB Bexley and the public cannot be confirmed until the full details of the scheme and all access works have been received and considered.

3.50 Article 16 – Traffic regulation
The meaning of 'traffic authority' is defined within the article and not within the definitions contained in Part 1 of the draft Order, which for highways (streets and PROW) in Bexley is LB Bexley. For that part of the SRN for London within Bexley that may be affected by the Order (A2016 Picardy Manorway & Bronze Age Way, and A206 Queens Road, South Road, Northend Road & Thames Road) Bexley cannot use its powers as traffic or highway authorities without the agreement of Transport for London.

Part 4 Supplemental Powers

3.51 Article 19 - Protective work to buildings
Protective works to a building or structure abutting (or close to) the highway may require temporary prohibitions within the highway (or even permanent works).

3.52 Article 20 - Felling or lopping of trees
Article 20 extends to land beyond the order limits and provides authority for works to trees or shrubs near to the development that the undertaker believes is necessary. The article as drafted includes within its scope trees which obstruct construction vehicles which could impact trees some distance away from the development without substantial reason. There is no provision, should it be required, for any trees or soft landscaping that form part of other approved developments, or significant specimens within the public realm/highway (that, if on private land, would be subject to a TPO) to be protected.

3.53 Article 29 - Rights under or over streets
Services must be at appropriate minimum depths of cover beneath, or heights to soffit over, the streets listed in Schedule 4. Details of the development have yet to be assessed hence the need for any air-space licences (ss177/178 HA 1980) has not been identified.

3.54 Article 30 - Temporary use of land for carrying out the authorised development
Article 30 does not restrict the applicant from only acquiring rights in the land in Schedule 9, we suggest that the word 'only' is inserted after 'the undertaker may' in the first line of article 30(1). We also note the absence of the purpose for which the land in Bexley is required from column (3) of Schedule 9 and request that this is provided in order that LB Bexley can consider the plots listed. If this is for temporary construction-related purposes, as for the plot in Dartford, the article must state that it will be for temporary possession only, with compensation under the CPO code and confirmation that no plant will remain in within or on the land and that the land will be made good to the LB Bexley's specification.

3.55 Article 32 – Statutory undertakers
See comments in respect of Articles 10-12 above.

3.56 Article 33 – Apparatus and rights of statutory undertakers in stopped up streets
See comments in respect of Article 13 above.

- 3.57 Article 41 – Procedures in relation to certain approvals etc
With respect to Schedule 12 of the addition, the relevant authority should be able to ask for longer time in certain circumstances, such as the submission of more information, or if the approval processes are subject to public or third-party consultations. In respect of the arbitration rules set out in Schedule 13, consideration will need to be given to where any approvals might be urgently required, especially in respect of safety-related temporary works to streets, and whether a faster-track process for determination is necessary.

Schedule 2 Requirements

- 3.58 The pre-construction condition relating to highway access (Article 8) is deemed suitable. It is noted that “highway access” is not defined by the DCO, and should include any highway mitigation measures, although none have been identified by the TA.
- 3.59 The pre-construction condition relating to a CTMP (article 13) and an Operational TP (Article 14) are noted. There is no reference to a DSP, see Potential for further mitigation above.

Ground Conditions

- 3.60 The project is in an area that could be impacted by land contamination, but it is not a sensitive development, something that has been confirmed by the findings of the PEIR. There will be a need for a Phase 2 investigation to identify any actual contaminant linkages and remediation requirements as a precautionary safeguard.

Areas of contention

- 3.61 From LB Bexley's initial review of the ES chapter and associated documentation, there are the following areas of contention:
- Asbestos in soils and ground gas are identified as requiring remediation on the REP site;
 - Contamination including tarry wastes, hydrocarbons and gross asbestos contamination are anticipated to be discovered during the proposed construction;
 - Contamination associated with borax wastes may be present on the data centre/construction compound site;
 - Site investigations indicate that groundwater and surface waters are impacted by contamination including chloride, boron, sodium, PAH and TPH;
 - Part of the proposed electricity connection route goes through an area of historic landfill; and
 - The significance of the pre-mitigation effects arising from contamination at the site are hidden by the assumption that as yet undefined measures within the CoCP will successfully deal with contamination that has not yet been fully assessed.

Potential for further mitigation

- 3.62 On the basis of the information reviewed, it is likely that effects associated with current ground conditions can be mitigated via pre-commencement DCO Requirements requiring appropriate investigation, risk assessment, remediation and verification, management of unforeseen contamination during construction, and a Foundations Works Risk Assessment.
- 3.63 The categorisation of the CoCP as an 'embedded' mitigation measure is inappropriate as the successful implementation of measures outlined within the CoCP cannot be guaranteed and is not necessarily under regulatory inspection or control.

- 3.64 The implementation of a robust CoCP, approved by the Local Authority, will be critical in mitigating otherwise potentially significant effects. The CoCP should include, amongst other things, protection of workers from soil and groundwater contamination and ground gas, appropriate UXO risk mitigation, appropriate spill prevention and response procedures, and site and stockpile management to mitigate contamination of surface water run-off and emission of contaminants in airborne dust and should be informed by the results of the site investigations.
- 3.65 The proposed works in the construction data centre/construction compound present the opportunity for betterment of shallow groundwater and surface water quality, to be evaluated during pre-commencement site investigations.
- 3.66 Gas monitoring data indicates that gas concentrations and flows are significant. The effects of tidal pumping of gas are recognised, but it is important that the characterisation of the gas regime is sufficient to identify maximum flow rates during the tidal cycle.

DCO requirements

Schedule 2

- 3.67 The report submitted pursuant to sub-paragraph (1) of Clause 10 of Schedule 2 (Ground conditions and ground stability) should include a remediation verification plan.

Pre-commencement works

- 3.68 The scheme of proposed investigations for the purposes of assessing ground conditions should be approved in writing by the Local Planning Authority prior to those investigations being undertaken.

Townscape and Visual

- 3.69 During construction the main issue will be the impact of the construction works on the open riverside character and intrusion of these activities into views. Significant effects during construction are reported as:
- Effect of construction on local townscape character of the REP site as a result of construction works on the open riverside; and
 - Effect of construction on views from the Thames Path; Crossness Nature Reserve; Green Chain Walk at Erith Marshes, Crossness Conservation Area; Lesnes Abbey; the London Loop, and PRoW near Horseshoe Corner (SA-1 East, SA-1 West 2, 3, 6, 7, 8, 10 and 11) as a result of cranes and construction activities in views.
- 3.70 These judgements on significant effects appear sound (based on method employed and scale of construction).
- 3.71 During operation the main issue is the height and scale of the Main REP Building (maximum height 65 m AOD) and the stacks, (maximum height 113m AOD) which will be larger than the adjacent existing developments and would result in a change to the skyline and scale of development that currently exists in this area. The significant effects reported during operation are:
- Adverse effects on the character of the Crossness Conservation Area and on the character of the designated Public Open Space landscapes around the site, due to the large scale of industrial development on what is currently open land that

will reduce connectivity between marshland areas and the river and change the character and views in the area³; and

- Effect on views from the Thames path near Crossness Conservation Area, and near Crossness Nature Reserve, Erith Marshes, and PRow west of Horseshoe Corner (SA-1 East, SA-1 West, 2,3,6 and 11) due to a new large industrial element in views. [NB this is reported as an adverse effect for viewpoints SA-1 East, 2, 3 due to creating more enclosed views and a new visual features on the skyline, and beneficial effect on viewpoints SA-1-West, 6 and 11 due to the creation of a new focal point, and skyline interest to the view with positive variation to the elevational built form].

3.72 These judgements on significant effects appear appropriate (based on method employed and scale of development), although it is acknowledged the positive direction of the effects on views SA-1-West, 6 and 11 may not be viewed as positive by everyone. Significant effects extend to some 2.5km from the site.

3.73 The following cumulative effects are deemed significant:

- Cumulative effect on viewpoints VP2, 3 and 4 (Public Rights of Way at Crossness Nature Reserve) due to committed development at 0014 (Savills bus depot, ind. & offices), 0008 (Data Centre), and 0012 (TRE Belvedere Industrial which includes large scale industrial buildings / offices of between 20 and 30 m in height) which will intensify the existing land use and increase the size and scale of built form in this area, in combination with the REP; and
- Cumulative effect on Viewpoint VP8 Lesnes Abbey due to committed development at Abbey Wood (Abbey Wood 087, 088, and Peabody Developments 029, 032, 033 which include tall residential apartment blocks of up to 96 m which will be visible from this view in the middle-distance skyline) in combination with the REP which will be an additional development further away.

Areas of contention

3.74 From our initial review of the ES chapter and associated technical appendices, there are no significant areas of contention. It would be helpful if the applicant could clarify:

- the reasoning behind the judgements on value, susceptibility and overall sensitivity (in the 3rd column of the table in Appendix E3) - and in particular why the susceptibility of the Crossness Conservation Area is judged to be low; and
- why the TVIA reports a moderate (significant) adverse effect on the Crossness Conservation Area during operation (ref. Table 9.6 in the TVIA and the Table in Appendix E.3), by way of a change in character, and whether this should be expressed as a change in views from the Conservation Area.

Potential for further mitigation

3.75 LB Bexley notes that embedded mitigation is provided by the Design Principles (Document Reference 7.4) which detail the design process associated with the selection of material and context colour palettes, which will ensure the Proposed Development integrates into the context of its surroundings.

3.76 the Applicant considers that no further mitigation or enhancement is considered necessary in addition to the design process that will be progressed in accordance with Design Principles (Document Reference 7.4). LB Bexley agrees that the remaining

³ Note commentary above with regard to assessment of the Conservation Area.

significant effects cannot be mitigated due to the nature and scale of the development.

Noise and Vibration

- 3.77 Noise from the facility would be expected to have a low impact on existing noise levels at the site and to existing residents in the vicinity. The Applicant would be expected to undertake a post-completion, pre-operational acoustic assessment in accordance with the relevant British Standards, to provide assurances that the built facility will meet the expectations stated in the submitted noise assessment and comply with appropriate safeguards imposed on any consent.

Areas of contention

- 3.78 LB Bexley's standard guidance for operational noise from fixed plant requires a rating level of no higher than 5dB below the typical LA90 background level at the nearest receptor. It would appear that, based on the baseline noise survey and predicted operational noise levels, there could be a difficulty for these proposals to meet this criteria. It is therefore suggested that this should be assessed in more detail by the Applicant, either using results of a long-term background noise survey or proposing additional mitigation to the predicted noise levels. The summary currently set out in paragraph 8.9.49 of the ES may therefore need to be modified.
- 3.79 The effects of noise from the construction of the electrical connection route have been estimated in Table 8.17 at 10/20m from the works, as LAeq,1hr 80/74dB. Although it is recognised that this would be of limited duration, such noise levels would have a significant effect on receptors within these distances. It is suggested that the overall effect should be modified to be negligible but with recognition that there will be significant effects at specified receptors for a period of a few days.

Potential for further mitigation

- 3.80 No additional mitigation or benefits have been identified

Flood Risk and Water Resources

- 3.81 Potential key issues:

- Increase in flood risk at site or downstream during construction and operation (Crossness Nature Reserve/unnamed ditches);
- Residual flood risk from the River Thames;
- Development of an effective drainage strategy with acceptable discharge water flow/quality;
- Siltation of local watercourses during construction and operation; and
- Contaminated runoff (such as hydrocarbons) from construction and operational processes (to land and ground).

Areas of contention

- 3.82 From LB Bexley's initial review of the ES chapter and associated documentation, there are the following areas of contention:
- Crossness Nature Reserve – Designated as Metropolitan Open Land by the Greater London Authority, therefore under the strongest possible protection from inappropriate development. The Applicant should ensure minimal impact to the nature reserve and its watercourses is expected. Environmental net gain should be delivered by the proposals;

- On-site drainage – Development of a drainage system that limits water flow to 1 in 100-year greenfield runoff rate of 35.3l/s and attenuation of 1 in 100-year storm (+40% for climate change increase);
- Current condition of the Thames Tidal defences - These vary from good/fair to poor and remedial works may be required due to the lifespan of the assets. Additionally, any works within 16m of a Tidal Flood Defence may also require a Flood Risk Activity Permit (FRAP) from the EA. The London Metropolitan Act covers the LB Bexley, which means that up to 50% of the costs of flood defences can be required from river fronting properties. The updated Thames Estuary (TE2100) is likely to affect the Applicant's responsibilities during the construction and operational phase;
- Water supply and sewerage – the Applicant has not specified the estimated requirement for potable water. Furthermore, there is no assessment on the load that will be placed on existing sewerage infrastructure. The Applicant should contact Thames Water for a report on this matter; and
- Risk of flooding to people and property – in case of the residual flood risk at the site from the River Thames, people and property must be afforded appropriate protection.

Potential for further mitigation

Construction

- 3.83 Appropriate mitigation of contaminated runoff and increasing silt loads to watercourses at site and the path of the Electrical Connect Route, via temporary construction works drainage systems and safety management, silt traps, safe storage of materials etc.
- 3.84 Any subsurface work such as piling must adhere to appropriate mitigation measures to prevent contamination to groundwater be put in place following best practice guidelines.
- 3.85 Staff should be made aware of the risks posed to them from residual flood risk from the River Thames and the risk that the works may have to the local environment.
- 3.86 Mitigation from construction activities to the integrity of existing drainage ditches, earth embankments and tidal defences.

Operational

- 3.87 Appropriately designed drainage system – points at which the drainage system discharges to Crossness Nature Reserve or other associated ditches should be designed adequately and utilise critical equipment, such as hydrobrakes, to limit discharge. SUDs management trains also provide pre-treatment before discharge to the natural environment.
- 3.88 Finished flood levels designed to the proposed height, as noted by EA during the consultation process (2.97mAOD minimum).
- 3.89 As Crossness Nature Reserve is owned and operated by Thames Water, the Applicant should work with and consult where possible to provide the best and most practical protection and opportunities for improvements.
- 3.90 Adequate flood warning information in the event of flooding from the Thames.
- 3.91 Thames tidal defences - an assessment of the defences has been made with recommendations made together with subsequent EA comments post survey. The recommendations made with regards to the maintenance and points for repair of these defences could be taken up by the applicant.

4 FURTHER REPRESENTATIONS ON DRAFT DCO

4.1 LB Bexley has the following additional comments on the draft DCO.

Article 3

Limits of deviation

4.2 The document states that the development may deviate vertically from the 'levels of the authorised development' downwards by up to 2 metres but it is not clear what the levels referred to are. LB Bexley seeks clarification (not just in the case of deviations) but also with respect to the depth of any underground installations so that land is not sterilised, and the impact is mitigated.

Article 8

Consent to transfer benefit of the Order

4.3 The standard wording has been amended so that consent of SoS to transfer powers under the order is not required where:

- the transferee or lessee is the holder of a licence under section 6 of the Electricity Act 1989;
- the compensation provisions for the acquisition of rights or interests in land or for effects on land have been discharged or are no longer relevant.

4.4 It is not clear whether these both have to be true, it would be better if an 'and' was added to the end of (a), otherwise powers could be transferred to anyone without consent as soon as the land had been acquired.

Article 18

Authority to survey and investigate the land

4.5 This Article gives the undertaker the power to enter certain land for the purpose of surveying and investigating. It provides that the undertaker must give 14 days' notice before exercising the power of entry and that compensation is payable for any loss or damage caused. In addition, such survey work should address Health and Safety issues.

4.6 This Article is based on the model provisions, although article 18(1) has been extended to land "which may be affected by the authorised development" as surveys may need to be undertaken on such land to monitor the impacts of the authorised development (for example noise monitoring at residential receptors). This is fairly novel and extends their powers to land outside the order limits – distances should be specified, and proper discussions undertaken between the Applicant and LB Bexley about how such lands are to be affected to seek to avoid or mitigate the impact.

Article 23

Compulsory acquisition of rights

4.7 This does not technically restrict the applicant from only acquiring rights in the land in Schedule 7 (despite the title of that Schedule) we suggest that the word 'only' is inserted after 'the undertaker may' in the second line of 23(2).

Article 26

Statutory authority to override easements and other rights

- 4.8 This Article provides that by virtue of section 158 of the 2008 Act in carrying out or using the development authorised by the Order and doing anything else authorised by the Order, the undertaker may interfere with any easement, liberty, privilege, right or advantage annexed to land and affecting other land, including any natural right to support, or breach any restriction as to use of land arising by virtue of contract.
- 4.9 LB Bexley wonders why it is necessary if it is 'by virtue of s158 of the 2008 Act' already?

Article 28

Modification of the 1965 Act

- 4.10 Minor point, but the word 'Order' is missing from the last line.

Article 43

Special category land

- 4.11 There is one plot of land (within LB Bexley's boundary) within the Order land that constitutes open space for the purposes of section 19 of the Acquisition of Land Act 1981. This plot is shown on the land plans, sheet 12 (Document Reference 2.1) and comprises grassland, trees and shrubbery, south of Thames Road and south-west of Crayside Industrial Estate, Crayford. The statement of reasons addresses this at para 9.2: The Applicant is seeking powers to acquire rights under this land for the purposes of installing and keeping the Electrical Connection beneath the surface of that land. The Applicant has expressly limited the scope of the power sought over plot 12/02 in Article 23 and Schedule 7 to the draft DCO such that the land, when burdened with that right, will be no less advantageous to the persons in whom it is vested or who use it for the purpose of public recreation. Accordingly, the powers sought over the plot fall within section 132(3) of the PA 2008 and would not require the DCO, if made, to be subject to special parliamentary procedure.
- 4.12 LB Bexley will want to protect our land in the long term – whilst the land is open space now it may be required for alternative purposes in the future and therefore whilst the land is covered by the DCO it is imperative that the work to be undertaken is done in a way that minimises sterilisation and land take and that plant is installed at depths that do not onerously affect the ability to lay a footpath or access road etc and that such plant can be diverted in the future if required without onerous stipulations.

5 CONCLUSIONS

- 5.1 Any DCO that is granted should take into account these representations.